

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WISCONSIN
EAU CLAIRE DIVISION**

RUSH CREEK RANCH, LLLP,)
a Colorado Limited Liability Limited Partnership,)

Plaintiff,)

vs.)

EASTERN LIVESTOCK COMPANY, LLC.,)
ARCADIA STOCKYARD,)
CATTLEMEN’S LIVESTOCK MARKET,)
COLUMBIA LIVESTOCK MARKET OF)
LAKE CITY, INC., HARDEE LIVESTOCK)
MARKET, INC., NORTH FLORIDA)
LIVESTOCK MARKET, OCALA LIVESTOCK)
MARKET, INC., OKEECHOBEE LIVESTOCK)
MARKET, SUMTER COUNTY FARMER’S)
MARKET, INC., TOWNSEND LIVESTOCK)
MARKET, FIFTH THIRD BANK,)
JAMES BYRD, aka I.E. BYRD, OAK LAKE)
CATTLE COMPANY, INC., D&R TRUCKING,)
RONALD SIZEMORE TRUCKING, INC.)
BANKS 1-25, and DOES 25-50,)

Defendants.)

NO. _____

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1452(a) and Federal Rule of Bankruptcy Procedure 9027, James A. Knauer, the Chapter 11 trustee (“Trustee”) for defendant Eastern Livestock Co., LLC (“Eastern”), hereby files this Notice of Removal to remove an action pending in the Circuit Court of Vernon County, Wisconsin (the “State Court”) under Case No. 2010CV000317 and which was filed on November 7, 2010 against Eastern and others (the “State Court Action”), to the United States Bankruptcy Court for the Western District of Wisconsin (this “Court”). The grounds for removal are as follows:

1. According to the Complaint for Interpleader filed in the State Court Action by Plaintiff, Rush Creek Ranch, LLLP (“Rush Creek”), Rush Creek purchased certain cattle (the “Cattle”) directly from Eastern. Soon after purchasing the Cattle, Plaintiff learned that Eastern was having financial issues and developed reason to believe that cattle producers from whom the Cattle had been obtained by Eastern, either directly or indirectly, may not have been paid. According to its Complaint, Rush Creek is concerned that it does not have clear title to the Cattle, may be subject to various claims from ranchers, producers, lenders, assigns, and lien holders, and may be exposed to potential liability by multiple parties. Therefore, Rush Creek sought leave to pay sums owed to Eastern to the Clerk of the State Court and to interplead the persons who may assert some right, title or interest in the funds. Since Rush Creek purchased the Cattle directly from Eastern, Eastern has rights to the funds that Rush Creek interpleaded.

2. On December 2, 2010, certain petitioning creditors of Eastern filed an involuntary petition against Eastern for relief under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101 et seq., in the United States for the Southern District of Indiana (“Indiana Bankruptcy Court”), which is currently pending under Case No. 10-93904-BHL-11 (the “Bankruptcy Case”). The Indiana Bankruptcy Court entered the Order For Relief in An Involuntary Case and Order to Complete Filing on December 28, 2010, a true and accurate copy of which is attached hereto as Exhibit A.

3. On December 27, 2010, the Indiana Bankruptcy Court entered the Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee, approving the United States Trustee's Application for an Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee pursuant to 11 U.S.C. § 1104, a true and accurate copy of which is attached hereto as Exhibit B.

4. The State Court Action is removable pursuant to 28 U.S.C. § 1452(a) and Federal Rule of Bankruptcy Procedure 9027. Section 1452(a) provides that a "party may remove any claim or cause of action in a civil action ... to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title." This court has subject matter jurisdiction over the claims asserted in the State Court Action pursuant to 28 U.S.C. § 1334(b) because the State Court Action involves funds to which Eastern, a Chapter 11 debtor, may have rights and thus, is a "civil proceeding[] arising under title 11, or arising in or related to cases under title 11." 28 U.S.C. § 1334(b).

5. Pursuant to Federal Rule of Bankruptcy Procedure 9027, the Trustee states that the claims and causes of action being removed constitute core proceedings under 28 U.S.C. § 157(b)(2). The State Court Action is directly related to Eastern's bankruptcy and involves potential assets of Eastern's estate because it concerns interpleaded funds to which Eastern may have a claim. The Trustee consents to entry of final orders or judgment by the judge of the Bankruptcy Court.

6. Federal Rule of Bankruptcy Procedure 9027 provides for a notice of removal to be filed with the "clerk for the district and division within which is located the state or federal court where the civil action is pending." "Virtually all courts hold that means the clerk of the bankruptcy court, not the clerk of the district court." *Bankruptcy Law Manual*, § 2A (2010); *see also In re Donald H. Donoho*, 402 B.R. 687, 691 (E.D. Vir. 2009) (noting that a majority of reported cases have reached the conclusion that removal to the bankruptcy court is appropriate under Bankruptcy Rule 9027). Therefore, removal to this Court is proper under Federal Rule of Bankruptcy Procedure 9027.

7. Because this removal is pursuant to 28 U.S.C. § 1452, which allows “a party” to remove an action, the general rule for removal under 28 U.S.C. § 1441, which requires unanimous consent to removal from all defendants, does not apply. *See, e.g., Anstine & Musgrove, Inc. v. Calcasieu Refining Co.*, 436 B.R. 136, 138-39 (D. Kan. 2010) (“A substantial majority of courts have agreed with the arguments made by defendants here, ruling that the consent of all defendants is *not* required for removal under Section 1452.”) (emphasis in original) (citing multiple cases).

8. Pursuant to Federal Rule of Bankruptcy Procedure 9027(a)(2), this Notice is being timely filed within 90 days after the order for relief under the Bankruptcy Code was entered on December 28, 2010.

9. Furthermore, given the concerns of several other parties in positions similar to Rush Creek, the Trustee has already filed an emergency motion in the Indiana Bankruptcy Court to set up procedures to resolve disputes related to the payment of cattle sold by Eastern. The claims in the State Court Action should be resolved by the same or similar mechanism in the Indiana Bankruptcy Court. This case having been removed to this Court, the Trustee intends promptly to file a motion seeking to transfer this action to the Indiana Bankruptcy Court pursuant to 28 U.S.C. § 1404 and/or § 1412.

10. The Trustee will promptly provide a written notice of the filing of this Notice upon all parties or counsel of record therein and will file a copy of this Notice of Removal in the State Court Action, as required by Federal Rule of Bankruptcy Procedure 9027(b) and (c).

11. Pursuant to Federal Rule of Bankruptcy Procedure 9027(a)(1), a copy of all process and pleadings in the State Court Action are attached hereto as Exhibit C.

WHEREFORE, James A. Knauer, as the chapter 11 trustee for defendant, Eastern Livestock Co., LLC, removes this action from the Circuit Court of Vernon County, Wisconsin, to the United States Bankruptcy Court for the Western District of Wisconsin.

Dated this 24th day of March, 2011.

MICHAEL BEST & FRIEDRICH LLP
Attorneys for James A. Knauer, Trustee for Eastern
Livestock Co., LLC

By: /s/ Nathan L. Moenck
Nathan L. Moenck

Ann Ustad Smith, Esq.
Nathan L. Moenck, Esq.
MICHAEL BEST & FRIEDRICH LLP
One South Pinckney Street, Suite 700
P.O. Box 1806
Madison, WI 53701-1806
Phone: 608-257-3501
Fax: 608-283-2275
ausmith@michaelbest.com
nlmoenck@michaelbest.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served upon the following counsel and parties of record by U.S. mail, first class, postage prepaid on this 24th day of March, 2011:

TO: Counsel for Rush Creek Ranch, LLLP:

David L. Abt, Esq.
ABT Law Office
210 North Main Street
P.O. Box 128
Westby, WI 54667

Counsel for Arcadia Stockyard; Cattlemen's
Livestock Market; Columbia Livestock
Market Of Lake City, Inc.; Hardee
Livestock Market, Inc.; North Florida
Livestock Market, Inc.; Ocala Livestock
Market, Inc.; Okeechobee Livestock
Market, Inc.; Sumter County Farmer's
Market, Inc.; and Townsend Livestock
Market:

W. Scott Newbern, Esq.
W. SCOTT NEWBERN, P.L.
2982 E. Giverny
Tallahassee, FL 32309

Counsel for Fifth Third Bank:

Brian K. Nowicki, Esq.
Reinhart Boerner Van Deuren, S.C.
22 E. Mifflin Street, Suite 600
Madison, WI 53703

James Byrd a/k/a I.E. Byrd d/b/a Oak Lake
Cattle Company, Inc.
1202 Northwest 8th Avenue
Okeechobee, FL 34972-2024

D&R Trucking
Alton, Iowa 51003

Ronald Sizemore Trucking, Inc.
9871 SE 22nd Street
Webster, FL 33597

EXHIBIT A

SO ORDERED: December 28, 2010.



A handwritten signature in black ink that reads "Basil H. Lorch III".

Basil H. Lorch III
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
121 W Spring St Rm 110
New Albany, IN 47150

B253 (rev 05/2008)

In Re:

Eastern Livestock Co., LLC
SSN: NA EIN: NA
Debtor(s)

Case Number:
10-93904-BHL-11

**ORDER FOR RELIEF IN AN INVOLUNTARY CASE AND
ORDER TO COMPLETE FILING**

On consideration of the petition filed on December 6, 2010 against the above-named debtor, an order for relief under Chapter 11 of title 11 of the United States Code is GRANTED.

IT IS FURTHER ORDERED that the debtor shall file or submit all documents required by Fed.R.Bankr.P. 1007(a)(2), (b), and (f) within the time limits set by that Rule.

###

EXHIBIT B



A handwritten signature in black ink that reads "Basil H. Lorch III".

Basil H. Lorch III
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

In re:)
)
Eastern Livestock Co., LLC ,) CASE NO. 10-93904-BHL-11
)
Debtor.)

ORDER APPROVING THE APPOINTMENT
OF JAMES A. KNAUER AS CHAPTER 11 TRUSTEE

This matter coming before the Court on the United States Trustee's Application for an Order Approving the Appointment of James A. Knauer as Chapter 11 trustee in the Eastern Livestock Co. LLC, case.

The Court, being duly advised, does hereby GRANT the Application and APPROVES the appointment of James A. Knauer as Chapter 11 trustee pursuant to 11 U.S.C. §1104.

####

EXHIBIT C

STATE OF WISCONSIN

CIRCUIT COURT

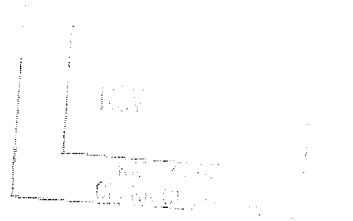
VERNON COUNTY

RUSH CREEK RANCH, LLLP,
a Colorado limited liability limited partnership,
8121 Ludlow Avenue
Viroqua, WI 54665

Plaintiff,

-vs-

EASTERN LIVESTOCK COMPANY, LLC
135 West Market
New Albany, IN 47150



-and-

ARCADIA STOCKYARD
2719 NE Earnest St
Arcadia, FL 34266-4186

CASE NO. 100311

Code: 30701

-and-

CATTLEMEN'S LIVESTOCK MARKET
3305 US Highway 92 E
Lakeland, FL 33801-9623

-and-

COLUMBIA LIVESTOCK MARKET
OF LAKE CITY, INC.
4662 Southeast Country Club Road
Lake City, FL 32056

-and-

HARDEE LIVESTOCK MARKET, INC.
1201 US Highway 17 South
Wauchula, FL 33873-3360

-and-

NORTH FLORIDA LIVESTOCK MARKET
12171 S Us Highway 441
Lake City, FL 32025-2685

-and-

OCALA LIVESTOCK MARKET, INC
PO Box 539
Lowell, FL 32663

-and-

OKEECHOBEE LIVESTOCK MARKET
1055 Hwy 98N.
Okeechobee, FL 34974

-and-

SUMTER COUNTY FARMER'S MARKET, INC
P.O. Box 62
Webster, FL 33597

-and-

TOWNSEND LIVESTOCK MARKET
S At I 10 Hc 53
Madison, FL 32340

-and-

FIFTH THIRD BANK
38 Fountain Square Plaza, Md.
#10 at 76
Cincinnati, OH 45263

-and-

JAMES BYRD, aka I. E. Byrd,
OAK LAKE CATTLE COMPANY, INC.
1202 Northwest 8th Avenue
Okeechobee, FL 34972-2024

-and-

D&R TRUCKING
Alton, IA 51003

-and-

RONALD SIZEMORE TRUCKING, INC.
9871 SE 22nd Street
Webster, FL 33597

-and-

BANKS 1-25,

-and-

DOES 25-50,

Defendants.

SUMMONS

THE STATE OF WISCONSIN

To each person named above as a Defendant:

You are hereby notified that the Plaintiff named above have filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within 20 days of receiving this Summons, you must respond with a written answer as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The Court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the Court, whose address is:

Clerk of Court
Vernon County Courthouse
400 Courthouse Square
Viroqua, WI 54665

and to David L. Abt, Plaintiff's attorney, whose address is:

ABT LAW OFFICE
210 North Main Street
P.O. Box 128
Westby, WI 54667

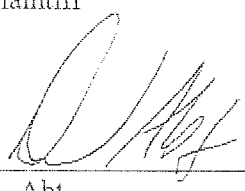
You may have an attorney help or represent you.

If you do not provide a proper answer within 20 days, the Court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated at Westby, Wisconsin, this 16th day of November, 2010.

ABT LAW OFFICE
Attorneys for Plaintiff

By: _____

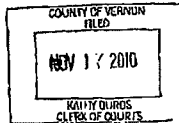

David L. Abt
State Bar No. 01017076

ABT LAW OFFICE
210 North Main Street
Westby, WI 54667
608.634.2157

NOV-17-2010 REC 12:04 PM

STATE OF WISCONSIN CIRCUIT COURT VERNON COUNTY

RI/SII CRPEK RANCH, L.L.P.,
a Colorado limited liability limited partnership,
8121 Ludlow Avenue
Viroqua, WI 54665
Plaintiff,



-vs-

EASTERN LIVESTOCK COMPANY, LLC
135 West Market
New Albany, IN 47150

-and-

ARCADIA STOCKYARD
2719 NE Earnest St
Arcadia, FL 34266-4186

-and-

CATTLEMEN'S LIVESTOCK MARKET
3305 US Highway 92 E
Lakeland, FL 33801-9623

-and-

COLUMBIA LIVESTOCK MARKET
OF LAKE CITY, INC.
4662 Southeast Country Club Road
Lake City, FL 32056

-and-

HARDED LIVESTOCK MARKET, INC.
1201 US Highway 17 South
Wauchula, FL 33873-3360

-and-

NORTH FLORIDA LIVESTOCK MARKET
12171 S Us Highway 441
Lake City, FL 32025-2685

CASE NO. 10-93904

Code: 30701

P.008

1 812 949 9060

Eastern Livestock

NOV-18-2010 15:51

NOV-18-2010 15:51

P.009

1 812 949 9060

Eastern Livestock

NOV-18-2010 15:51

-and-

Ocala Livestock Market, Inc
PO Box 539
Lowell, FL 32663

-and-

Okeechobee Livestock Market
1055 Hwy 98N.
Okeechobee, FL 34974

-and-

Sumter County Farmer's Market, Inc
P.O. Box 62
Webster, FL 33597

-and-

Townsend Livestock Market
S Al 110 Hc 53
Madison, FL 32340

-and-

Fifth Third Bank
38 Fountain Square Plaza, Md.
#10 at 76
Cincinnati, OH 45263

-and-

JAMES BYRD, aka I. E. Byrd,
OAK LAKE CATTLE COMPANY, INC.
1202 Northwest 8th Avenue
Okeechobee, FL 34972-2024

-and-

D&R Trucking
Alton, IA 51003

NOV-11-2010 WED 12:04 PM

-and-

RONALD SIZEMORE TRUCKING, INC.
9871 SE 22nd Street
Webster, FL 33597

-and-

HANKS 1-25,

-and-

DOES 25-50,

Defendants.

COMPLAINT FOR INTERPLEADER

Plaintiff Rush Creek Ranch, L.L.P., by its attorney, David L. Abt, for its Complaint for Interpleader against the above-named Defendants, alleges as follows:

JURISDICTION AND VENUE

1. This is an action for interpleader pursuant to Wis. Stat. § 803.07. This Court has personal jurisdiction over Defendants named herein, particularly, Defendant Eastern Livestock Company, LLC (hereinafter "Defendant Eastern Livestock"), pursuant to Wis. Stat. §801.05(1)(2) and (5)(e).
2. Venue is proper in Vernon County as Plaintiff and its principal place of business is located in Vernon County.
3. Defendant Eastern Livestock is a nationwide cattle buyer, seller, distributor and broker doing business routinely in the State of Wisconsin, and for the past 20 years has done business with Plaintiff at the address set forth above.
4. For approximately 20 years, Plaintiff has taken delivery at Plaintiff's ranch facilities in Vernon County, Wisconsin, of cattle purchased from Defendant Eastern Livestock.

P.010

1 812 949 9060

Eastern Livestock

NOV-18-2010 15:52

NOV-17-2010 WED 12:03 PM EST

PARTIES

5. Rush Creek Ranch, L.L.P., is a Colorado limited liability limited partnership engaged in the business of purchasing, feeding, stocking, and selling feeder cattle with its principal place of business located at 8121 Ludlow Avenue, Viroqua, County of Vernon, Wisconsin. Plaintiff is duly registered to do business in the State of Wisconsin. Plaintiff has operated the business at the above address for more than 20 years.
6. On information and belief, Defendant Eastern Livestock is a Kentucky limited liability company whose address is 135 West Market, New Albany, Indiana.
7. On information and belief, Defendant Arcadia Stockyard, with its principal place of business at 2719 NE Earnest Street, Arcadia, Florida, is in the business of conducting auction sales of cattle and other livestock.
8. On information and belief, Defendant Cattlemen's Livestock Market, with its principal place of business at 3305 US Highway 92 East, Lakeland, Florida, is in the business of conducting auction sales of cattle and other livestock.
9. On information and belief, Defendant Columbia Livestock Market of Lake City, Inc., with its principal place of business at 4662 Southeast Country Club Road, Lake City, Florida, is in the business of conducting auction sales of cattle and other livestock.
10. On information and belief, Defendant Hardee Livestock Market, Inc., with its principal place of business at 1201 US Highway 17 South, Wauchula, Florida, is in the business of conducting auction sales of cattle and other livestock.
11. On information and belief, Defendant North Florida Livestock Market, with its principal place of business at 12171 South US Highway 441, Lake City, Florida, is in the business of conducting auction sales of cattle and other livestock.
12. On information and belief, Defendant Ocala Livestock Market, Inc., with its principal place of business in Lowell, Florida, is in the business of conducting auction sales of cattle and other livestock.
13. On information and belief, Defendant Okeechobee Livestock Market, with its principal place of business at 1055 Highway 98N, Okeechobee, Florida, is in the business of conducting auction sales of cattle and other livestock.
14. On information and belief, Defendant Sumter County Farmer's Market, Inc., with its principal place of business in Webster, Florida, is in the business of conducting auction sales of cattle and other livestock.
15. On information and belief, Defendant Townsend Livestock, with its principal place of business at S at F 10 HC 53, Madison, Florida, is in the business of conducting auction sales of cattle and other livestock.

P.011

1 812 949 9060

Eastern Livestock

NOV-18-2010 15:52

P.012

1 812 949 9060

Eastern Livestock

NOV-18-2010 15:52

16. On information and belief, Defendant Fifth Third Bank (hereinafter "Defendant Fifth Third"), is a national bank whose address is 38 Fountain Square Plaza, Md., #10 on 76, Cincinnati, Ohio. On information and belief, Defendant Fifth Third is a lender to Defendant Eastern Livestock.

17. On information and belief, Defendant James Byrd, aka L.E. Byrd, dba Oak Lake Cattle Company, with his principal place of business at 1202 Northwest 8th Avenue, Okaloosa, Florida, is engaged in the cattle brokerage business.

18. On information and belief, D & R Trucking, with its principal place of business in Alton, Iowa, is in the business of trucking livestock, and may claim security interest or other lien in and to the livestock.

19. On information and belief, Ronald Sizemore Trucking, Inc., with its principal place of business at 9871 SE 22nd Street, Webster, Florida, is in the business of trucking livestock and may claim security interest or other lien in and to the livestock.

20. Defendant Banks 1 through 25 are named fictitiously herein and may claim security interest or other lien in and to the livestock.

21. Defendant Docs 25 through 50 are named fictitiously herein and may claim security interest or other lien in and to the livestock.

GENERAL ALLEGATIONS

22. On or about October 16, 2010, Plaintiff purchased 165 head of feeder cattle from Defendant Eastern Livestock for the price of \$41,208.76. A copy of Invoice and Security Agreement #291244 is attached hereto and incorporated herein as Exhibit A.

23. Plaintiff took delivery of the cattle. Plaintiff has not paid for the cattle and hereby tenders to the Court the sum of \$41,208.76.

24. On information and belief, Defendant Eastern Livestock paid the other Defendants listed herein and other parties for the cattle.

25. On or about October 16, 2010, Plaintiff purchased 132 head of feeder cattle from Defendant Eastern Livestock for the price of \$34,727.86. A copy of Invoice and Security Agreement #291246 is attached hereto and incorporated herein as Exhibit B.

26. Plaintiff took delivery of the cattle. Plaintiff has not paid for the cattle and hereby tenders to the Court the sum of \$34,727.86.

27. On information and belief, Defendant Eastern Livestock paid the other Defendants listed herein and other parties for the cattle.

NOV-17-2010 15:52

P.013

1 812 949 9060

Eastern Livestock

NOV-18-2010 15:52

28. On or about October 16, 2010, Plaintiff purchased 198 head of feeder cattle from Defendant Eastern Livestock for the price of \$51,887.76. A copy of Invoice and Security Agreement #291251 is attached hereto and incorporated herein as Exhibit C.

29. Plaintiff took delivery of the cattle. Plaintiff has not paid for the cattle and hereby tenders to the Court the sum of \$51,887.76.

30. On information and belief, Defendant Eastern Livestock has not paid the other Defendants listed herein, other auction barns and sales houses and other parties who may claim an interest in and to the cattle.

31. On or about October 16, 2010, Plaintiff purchased 196 head of feeder cattle from Defendant Eastern Livestock for the price of \$50,408.91. A copy of Invoice and Security Agreement #291253 is attached hereto and incorporated herein as Exhibit D.

32. Plaintiff took delivery of the cattle. Plaintiff has not paid for the cattle and hereby tenders to the Court the sum of \$50,408.91.

33. On information and belief, Defendant Eastern Livestock has not paid the other Defendants listed herein, auction barns, sales houses and other parties who may claim an interest in and to the cattle.

34. Plaintiff hereby tenders to the Circuit Court of Vernon County, Wisconsin, four cashier's checks in the amount of \$41,208.76, \$34,727.86, \$51,887.76 and \$50,408.91 (hereinafter referred to as "Interpled Funds").

35. As described above, Plaintiff believes that Defendant Eastern Livestock is in the chain of title for all of the cattle.

36. Defendant Eastern Livestock claims to be one of the largest livestock brokers in the United States. Upon information and belief, Defendant Eastern Livestock's business has failed as described in, among other things, Dow Jones Newswire article attached hereto as Exhibit E, which news article also describes the "ripple" effect Defendant Eastern Livestock's failure may cause upon livestock markets. Upon information and belief, the USDA issued a Cease and Desist Order directed at Defendant Eastern Livestock.

37. Plaintiff received claims from Defendant Eastern Livestock as well as various other Defendants making claim to the funds which Plaintiff owes for the purchase of the cattle. Plaintiff is fearful of being placed in a position or at risk for double payment by paying one claimant and not the other. Defendant Eastern Livestock claims all of the proceeds. Other defendant auction houses claim only a portion of the proceeds for certain cattle sold to or through Defendant Eastern Livestock, which cattle, in turn, were sold by Defendant Eastern Livestock to Plaintiff.

NOT IN COURT FILE

38. Based on the best information available to Plaintiff, some or all of Defendants identified in this case may have an interest in the Interpled Funds. There may be more persons who may have an interest in the Interpled Funds, but at this juncture, Plaintiff is unable to identify who they may be.

39. In view of the potential for multiple and/or conflicting claims by and among all of the Defendants named herein and the lack of information as to validity of any claims asserted, the possibility that other parties may claim an interest in and to the Interpled Funds and/or the cattle and lack of a final determination of the respective rights of the potential claimants, Plaintiff is unable to determine which, if any, of the competing claims to the cattle and/or the Interpled Funds is valid. For these reasons, Plaintiff commenced this action in the nature of interpleader.

40. Plaintiff requests that it be permitted to interplead the funds set forth above constituting the amount of \$178,233.29, (the Interpled Funds).

41. Plaintiff is acting without collusion with the other parties to this case and requests that this Court enter an order restraining Defendants and all persons from commencing or continuing any action against Plaintiff except in this interpleader action, and from prosecuting any proceedings against Plaintiff insofar as such persons may assert ownership or lien claims against the Interpled Funds and/or Plaintiff's cattle until further order of the Court, and further ordering that Defendants and all other persons be restrained from initiating any proceedings affecting the liability of Plaintiff with respect to the purchased cattle and/or the Interpled Funds.

42. Plaintiff claims to be owner of the cattle set forth in Exhibits A-D and has taken delivery of each and every animal.

43. Plaintiff recognizes it has the obligation to pay for the cattle and tenders and hereby requests that the Court allow payment to the Court of the Interpled Funds.

44. Plaintiff requests that it be discharged from any responsibility or liability with respect to the Interpled Funds and that the Court determine that Plaintiff holds title to the purchased animals, free and clear of all liens and encumbrances and that Plaintiff be exonerated, discharged and released as to named Defendants or any other claimants who may hereafter be joined in this proceeding with respect to the cattle or the Interpled Funds.

45. Plaintiff seeks a declaratory judgment that it has no further obligations for payment of the cattle set forth in Exhibits A-D other than payment of the Interpled Funds set forth herein, and that Plaintiff be discharged from all further liability to Defendants or any other potential claimant by payment of the Interpled Funds, and that the Court declare that Plaintiff has title to the purchased cattle set forth in Exhibits A-D, free and clear of claim of lien of any Defendant herein or any other potential claimant.

P.014

1 812 949 9060

Eastern Livestock

NOV-18-2010 15:52

WHEREFORE, Plaintiff respectfully requests that this Court order, adjudge and decree as follows:

a. That Plaintiff's interpleader of the funds for the payments of invoices (Exhibits A-D) in the amounts of \$41,208.76, \$34,727.86, \$51,887.76 and \$50,408.91 (totaling \$178,233.29), respectively, be accepted by this Court;

b. That Defendants and any other current or future party to this case be restrained from prosecuting or instituting any civil actions against Plaintiff on account of Plaintiff's purchase of the cattle set forth in Exhibits A-D or the Interpled Funds set forth above;

c. That Defendants and any party to this case be required to litigate their respective rights and entitlements, if any, to the cattle or Interpled Funds within this case.

d. That Plaintiff be discharged and exonerated from any liability with respect to the cattle or Interpled Funds;


e. That Plaintiff be dismissed from this case with prejudice;

f. That Plaintiff be awarded attorney fees and costs as provided by any agreement between the parties or by law; and,

g. For such other and further relief as the Court may deem proper.

Dated this 16th day of November, 2010.

ABT LAW OFFICE
Attorneys for Plaintiff

By: 
David L. Abt
State Bar No. 1017076

ABT LAW OFFICE
PO Box 128
Westby, WI 54665
608.634.2157

1 812 949 9060 F.010

Eastern Livestock

NOV-18-2010 15:52

INVOICE NO. 291244

DATE 12/16/10

10.11.13 22

DATE 10/16/10 10-17-10 RCL
E
Eastern Livestock Co., LLC

WELD TO RUSH CROFT RANCH

SHIP TO San Francisco

Address 8121 Lakeside Ave

Address:

Address State
City/State/Zip Virginia, Va. 54665

City-State-Zip Chickasha, OK

Specifically subject to all terms, conditions, and provisions appearing upon the reverse side of this instrument.

Number Hand	Fond	Weight	Average	Amount
B2 DIO SIO		15.240	186 / 144.93	22,087.33
B3 DIOW HFA		15.795	190 / 121.86	19,121.43
	→	15.785		
	95% all	30% dark	add	
	90% all	54% dark		
TOTALS	165	71.075	317 dark	41,208.76

TRUCKER: SIZEMORE/ARNDT/VIRGINIA

COMMISSION

VETERINARY

TRUCKING -

OTHER _____

TOTAL _____

FROM DLC #22

VERIFICATION OF NEW PRODUCER STATUS
 FOR THE YEAR 1992
 The above 11%

X NOT JEDUC MR
- 100 BIRNERS BEN CLEMONDOR - HOSBOMER,
BEC: BIRNERS ST GAST=JEDU NO, NY-226
S.E.B. **10/16/16**

Please Return to: EASTERN LIVESTOCK CO., LLC
133 West Market
New Albany, IN 47150
812-949-8035

EXHIBIT
A

P.017

1 812 949 9060

Eastern Livestock

NOV-18-2010 15:52

TERMS, CONDITIONS, RESERVATIONS AND
AGREEMENTS APPLICABLE TO INVOICE AND
SECURITY AGREEMENT

1. Buyer grants a security interest to Seller in all cattle the subject of this invoice to secure payment of all obligations of Buyer to Seller whether now existing or arising in the future, whether derived from this invoice or not.
2. In the event of dishonor or non-payment or any other default representing default of this invoice, Seller shall be entitled to interest upon the sum represented by the said invoice from date thereof at the highest lawful rate and an extra and expensive insurance and other charges a lien thereon to secure payment for the recovery of the indebtedness to Seller or recovery of the invoice and return under the terms of the invoice.
3. All sales are subject to U.S. Government Regulations and obligations of seller are hereby accepted and acknowledged and assumed by seller in writing.
4. The cattle are sold "as is." All warranties, expressed or implied, including any representation of merchantability or for a particular purpose are disclaimed.
5. The above terms and conditions become the basis of the invoice unless Buyer expressly disagrees by notifying Seller in writing no later than 3 days following receipt of the livestock subject to this invoice. Buyer hereby authorizes Seller to file a financing statement relative to the livestock described on this invoice. Acceptance of said livestock without objection over the above terms shall be "admission" of the invoice and Agreement under Article 9 of the Uniform Commercial Code.

P.018

1 812 949 9060

Eastern Livestock

NOV-18-2010 15:52

INVOICE AND SECURITY AGREEMENT

INVOICE NO. 281,246

DATE 10/22/10

Eastern Livestock Co., LLC

SOLD TO BUSH CREEK RANCH SHIP TO New Quincy
 ADDRESS 8121 WOODS AVE. ADDRESS /
 City/State/Zip WASQUA UT. 84665 City/State/Zip NEW ALBANY, IN

Specifically subject to all terms, conditions, and provisions
 appearing upon the reverse side of this instrument.

MARKET HEAD	WEIGHT	AVAILABILITY	AMOUNT
1. 64 B10 SW	12620	197 / 147.93	18,663.72
1. 62 B10 SW	12975	189 / 147.93	16,064.14
TOTALS	132	25,495	34,727.86

TRUCKER: SIDMOND/KUMARIS

COMMISSION

VETERINARY

TRUCKING

OTHER

TOTAL

FROM: OLC/P20

DETERMINATION OF VENDOR/BUYER STATUS
 IF BUYER IS A VENDOR, THE BUYER SHALL BE RESPONSIBLE FOR THE PAYMENT OF THE INVOICE.
 IF BUYER IS A BUYER, THE BUYER SHALL BE RESPONSIBLE FOR THE PAYMENT OF THE INVOICE.

IF BUYER IS A VENDOR, THE BUYER SHALL BE RESPONSIBLE FOR THE PAYMENT OF THE INVOICE.
 IF BUYER IS A BUYER, THE BUYER SHALL BE RESPONSIBLE FOR THE PAYMENT OF THE INVOICE.

PLACE ORDER AT: EASTERN LIVESTOCK CO., LLC
 135 West Market
 New Albany, IN 47150
 812-949-9060



P.019

1 812 949 9060

Eastern Livestock

NOV-18-2010 15:53

TERMS, CONDITIONS, RESERVATIONS AND
AGREEMENTS APPLICABLE TO INVOICE AND
SECURITY AGREEMENT

1. Buyer grants a security interest to Seller in all cattle the subject of this invoice to secure payment of all obligations of Buyer to Seller, whether now existing or arising in the future, whether derived from this invoice or not.
2. In the event of default or non-payment on any check or draft representing payment of this invoice, Seller shall be entitled to interest upon the sum represented by the said invoice from date thereof at the higher of twelve (12) per cent and the rate of interest payable on the same as determined by the Federal Reserve Bank of New York, and to expenses including reasonable attorney's fees incurred in or necessary for the recovery of the indebtedness to Seller or recovery of the proceeds of the proceeds of the sale of the cattle.
3. All sales are subject to U.S. Government Regulations and objectives of Seller and Buyer to the extent additional conditions are required by Seller in writing.
4. The cattle are sold "as is." All warranties, expressed or implied, including any warranties of merchantability or for a particular purpose are disclaimed.
5. The terms, terms and conditions become the basis of this invoice when Buyer expressly agrees by signing Seller's invoice within thirty (30) days following receipt of the livestock subject to this invoice. Buyer hereby authorizes Seller to file a financing statement relative to the livestock described on this invoice. Assurances of said livestock without objection, for the above terms shall be "authenticated" by this invoice and Agreement under Article 3 of the Uniform Commercial Code.

EXHIBIT
1 C

P. 025

1 812 949 9060

Eastern Livestock

NOV-18-2010 15:53

CLERK OF COURT

FAX NO. 16086342159

P. 25

STATE OF WISCONSIN CIRCUIT COURT VERNON COUNTY

RUSH CREEK RANCH, LLLP,
a Colorado limited liability limited partnership,
8121 Ludlow Avenue
Virgina, WI 54665

Plaintiff,

-vs-

EASTERN LIVESTOCK COMPANY, LLC
135 West Market
New Albany, IN 47150

-and-

ARCADIA STOCKYARD
2719 NE Encrest St
Arcadia, FL 34266-4186

-and-

CATTLEMEN'S LIVESTOCK MARKET
3305 US Highway 92 E
Lakeland, FL 33801-9623

-and-

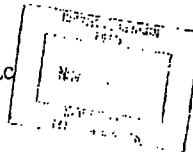
COLUMBIA LIVESTOCK MARKET
OF LAKE CITY, INC.
4662 Southeast Country Club Road
Lake City, FL 32056

-and-

HARDEE LIVESTOCK MARKET, INC.
1201 US Highway 17 South
Wauchula, FL 33873-3360

-and-

NORTH FLORIDA LIVESTOCK MARKET
12171 S Us Highway 441
Lake City, FL 32025-2685



CASE NO. 10-93904-BHL-11

Code: 30701

NOV-18-2010 15:53

Eastern Livestock
CREDIT ADVISORY

1 812 949 9060
FAX NO. 16086342159

P.027

P. 27

-and-

RONALD SIZEMORE TRUCKING, INC.
9871 SE 22nd Street
Webster, FL 33597

-and-

BANKS 1-25,

-and-

DOES 25-50,

Defendants.

**MOTION FOR ORDER AUTHORIZING
DEPOSIT OF INTERPLED PROCEEDS
TO CLERK OF COURT**

Pursuant to Plaintiff's Complaint for Interpleader, Plaintiff respectfully moves the Court for an order authorizing the deposit of interpled proceeds to the Clerk of Court for holding until final determination or outcome of the interpleader case.

In support of this Motion, Plaintiff states as follows:

1. Concurrent with the Motion, Plaintiff filed a Complaint for Interpleader. Plaintiff incorporates all allegations of its Complaint herein.
2. Accordingly, Plaintiff tendered the following checks to the Clerk of Court as follows:
 - a. No. 227072 in the amount of \$41,208.76;
 - b. No. 227073 in the amount of \$34,727.86;
 - c. No. 227074 in the amount of \$51,887.76; and,
 - d. No. 227075 in the amount of \$50,408.91.

WHEREFORE, Plaintiff respectfully requests an order from this Court authorizing the deposit of \$178,233.29 to the Clerk of Court.

Dated this 16th day of November, 2010.

NOV-18-2010 15:53

Eastern Livestock
ATTORNEY LAW OFFICE

1 812 949 9060
FAX NO. 16086342159

P.028
P. 28

ABT LAW OFFICE
Attorneys for Plaintiff

By: 

David L. Abt
State Bar No. 1017076

ABT LAW OFFICE
PO Box 128
Westby, WI 54665
608.634.2157

NOV-18-2010 15:53

Eastern Livestock

1 812 949 9060

P.029

THE KARABOO NATIONAL BANK
DARABOO, WISCONSINCashier's Check
Date: 11/16/10
Branch: 0041
227072

\$41,208.76

REMITTER RUSH CREEK RANCH LLC

PAY
TO THE
ORDER OF VERNON COUNTY CLERK OF COURTS
EXACTLY **41,208 AND 76/100 DOLLARS

10/16 165 HEAD

⑈00227072⑈ ⑆075901590⑆ ⑆00000019⑈

THE KARABOO NATIONAL BANK
DARABOO, WISCONSINCashier's Check
Date: 11/16/10
Branch: 0041
227073

\$34,727.86

REMITTER RUSH CREEK RANCH LLC

PAY
TO THE
ORDER OF VERNON COUNTY CLERK OF COURTS
EXACTLY **34,727 AND 86/100 DOLLARS

10/22 132 HEAD

⑈00227073⑈ ⑆075901590⑆ ⑆00000019⑈

THE KARABOO NATIONAL BANK
DARABOO, WISCONSINCashier's Check
Date: 11/16/10
Branch: 0041
227074

\$51,807.76

REMITTER RUSH CREEK RANCH LLC

PAY
TO THE
ORDER OF VERNON COUNTY CLERK OF COURTS
EXACTLY **51,807 AND 76/100 DOLLARS

10/29 198 HEAD

⑈00227074⑈ ⑆075901590⑆ ⑆00000019⑈

THE KARABOO NATIONAL BANK
DARABOO, WISCONSINCashier's Check
Date: 11/16/10
Branch: 0041
227075

Branch: 0041

REMITTER RUSH CREEK RANCH LLC

PAY
TO THE
ORDER OF VERNON COUNTY CLERK OF COURTS
EXACTLY **50,408 AND 51/100 DOLLARS

\$50,400.91

11/5 196 HEAD

⑈00227075⑈ ⑆075901590⑆ ⑆00000019⑈

TOTAL P.029

STATE OF WISCONSIN

CIRCUIT COURT

VERNON COUNTY

RUSH CREEK RANCH, LLLP,
a Colorado limited liability limited partnership,

Plaintiff,

-VS-

EASTERN LIVESTOCK COMPANY, LLC,
ARCADIA STOCKYARD,
CATTLEMEN'S LIVESTOCK MARKET,
COLUMBIA LIVESTOCK MARKET
OF LAKE CITY, INC.,
HARDEE LIVESTOCK MARKET, INC.,
NORTH FLORIDA LIVESTOCK MARKET,
OCALA LIVESTOCK MARKET, INC.,
OKEECHOBEE LIVESTOCK MARKET,
SUMTER COUNTY FARMER'S MARKET, INC.,
TOWNSEND LIVESTOCK MARKET,
FIFTH THIRD BANK,
JAMES BYRD, aka I. E. Byrd,
OAK LAKE CATTLE COMPANY, INC.,
D&R TRUCKING,
RONALD SIZEMORE TRUCKING, INC.,
BANKS 1-25, and DOES 25-50,

CASE NO. 10 CV 317

Code: 30701

Defendants.

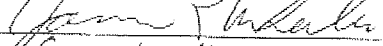
ADMISSION OF SERVICE

I received and admit service of the following:

1. Summons and Complaint
2. Motion for Order Authorizing Deposit of Interpled Proceeds to Clerk of Court

Dated: 11-26-10

HARDEE LIVESTOCK MARKET, INC.

By: 
Its General Manager

STATE OF WISCONSIN

CIRCUIT COURT

VERNON COUNTY

RUSH CREEK RANCH, L.L.P.,
a Colorado limited liability limited partnership,

Plaintiff,

-vs-

EASTERN LIVESTOCK COMPANY, LLC,
ARCADIA STOCKYARD,
CATTLEMEN'S LIVESTOCK MARKET,
COLUMBIA LIVESTOCK MARKET
OF LAKE CITY, INC.,
HARDEE LIVESTOCK MARKET, INC.,
NORTH FLORIDA LIVESTOCK MARKET,
OCALA LIVESTOCK MARKET, INC.,
OKEECHOBEE LIVESTOCK MARKET,
SUMTER COUNTY FARMER'S MARKET, INC.,
TOWNSEND LIVESTOCK MARKET,
FIFTH THIRD BANK,
JAMES BYRD, aka I. E. Byrd,
OAK LAKE CATTLE COMPANY, INC.,
D&R TRUCKING,
RONALD SIZEMORE TRUCKING, INC.,
BANKS 1-25, and DOES 25-50,

CASE NO. 10 CV 317

Code: 30701

Defendants.

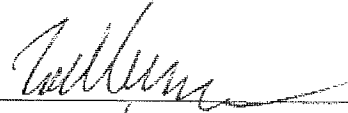
ADMISSION OF SERVICE

I received and admit service of the following:

1. Summons and Complaint
2. Motion for Order Authorizing Deposit of Interpled Proceeds to Clerk of Court

Dated: 11-29-10

OKEECHOBEE LIVESTOCK MARKET

By:  Todd Clemons
Its president

STATE OF WISCONSIN

CIRCUIT COURT

VERNON COUNTY

RUSH CREEK RANCH, LLLP,
a Colorado limited liability limited partnership,

Plaintiff,

-vs-

EASTERN LIVESTOCK COMPANY, LLC,
ARCADIA STOCKYARD,
CATTLEMEN'S LIVESTOCK MARKET,
COLUMBIA LIVESTOCK MARKET
OF LAKE CITY, INC.,
HARDEE LIVESTOCK MARKET, INC.,
NORTH FLORIDA LIVESTOCK MARKET,
OCALA LIVESTOCK MARKET, INC.,
OKEECHOBEE LIVESTOCK MARKET,
SUMTER COUNTY FARMER'S MARKET, INC.,
TOWNSEND LIVESTOCK MARKET,
FIFTH THIRD BANK,
JAMES BYRD, aka I. E. Byrd,
OAK LAKE CATTLE COMPANY, INC.,
D&R TRUCKING,
RONALD SIZEMORE TRUCKING, INC.,
BANKS 1-25, and DOES 25-50,

CASE NO. 10 CV 317

Code: 30701

Defendants.

ADMISSION OF SERVICE

I received and admit service of the following:

1. Summons and Complaint
2. Motion for Order Authorizing Deposit of Interpled Proceeds to Clerk of Court

Dated: 11/22/0

OCALA LIVESTOCK MARKET, INC.

By: [Signature]
Its [Signature]

STATE OF WISCONSIN

CIRCUIT COURT

VERNON COUNTY

RUSH CREEK RANCH, LLLP,
a Colorado limited liability limited partnership,

Plaintiff,

-vs-

EASTERN LIVESTOCK COMPANY, LLC,
ARCADIA STOCKYARD,
CATTLEMEN'S LIVESTOCK MARKET,
COLUMBIA LIVESTOCK MARKET

CASE NO. 10 CV 317

Code 030701

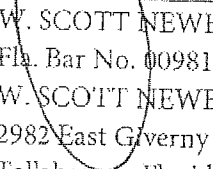
OF LAKE CITY, INC.,
HARDEE LIVESTOCK MARKET, INC.
NORTH FLORIDA LIVESTOCK MARKET,
OCALA LIVESTOCK MARKET, INC.,
OKEECHOBEE LIVESTOCK MARKET,
SUMTER COUNTY FARMER'S MARKET, INC.,
TOWNSEND LIVESTOCK MARKET,
FIFTH THIRD BANK,
JAMES BYRD, a/k/a I. E. Byrd,
OAK LAKE CATTLE COMPANY, INC.,
D&R TRUCKING,
RONALD SIZEMORE TRUCKING, INC.,
BANKS 1-25, and DOES 25-50,

Defendants.

NOTICE OF APPEARANCE ON BEHALF OF HILLIARD-McKETRICK
INVESTMENTS, INC., d/b/a ARCADIA STOCKYARD

The undersigned attorney hereby files this Notice of Appearance on behalf of
Defendant Hilliard-McKettrick Investments, Inc. d/b/a Arcadia Stockyard, and requests
copies of all future pleadings.

Respectfully submitted this 30th day of December 2010.



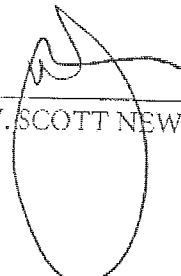
W. SCOTT NEWBERN
Fla. Bar No. 0098108
W. SCOTT NEWBERN, P.L.
2982 East Giverny Circle
Tallahassee, Florida 32309
(T) 850.591.1701
(F) 850.894.0871
wsnewbern@msn.com

COUNSEL FOR HILLIARD-McKETTTRICK
INVESTMENTS, INC., d/b/a ARCADIA
STOCKYARD

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to
the following by facsimile/~~U.S. Mail~~ this 30th day of December 2010.

David L. Abt
ABT LAW OFFICE
210 North Main St.
P.O. Box 128
Westby, WI 54667
T: 608.634.2157
F: 608.634.2159



W. SCOTT NEWBERN

STATE OF WISCONSIN

CIRCUIT COURT

VERNON COUNTY

RUSH CREEK RANCH, LLLP,
a Colorado limited liability limited partnership,

Plaintiff,

-vs-

EASTERN LIVESTOCK COMPANY, LLC,
ARCADIA STOCKYARD,
CATTLEMEN'S LIVESTOCK MARKET,
COLUMBIA LIVESTOCK MARKET
OF LAKE CITY, INC.,
HARDEE LIVESTOCK MARKET, INC.
NORTH FLORIDA LIVESTOCK MARKET,
OCALA LIVESTOCK MARKET, INC.,
OKEECHOBEE LIVESTOCK MARKET,
SUMTER COUNTY FARMER'S MARKET, INC.,
TOWNSEND LIVESTOCK MARKET,
FIFTH THIRD BANK,
JAMES BYRD, a/k/a I. E. Byrd,
OAK LAKE CATTLE COMPANY, INC.,
D&R TRUCKING,
RONALD SIZEMORE TRUCKING, INC.,
BANKS 1-25, and DOES 25-50,

CASE NO. 10 CV 317

Code 030701

Defendants.

**DEFENDANT ARCADIA STOCKYARD'S RESPONSE TO INTERPLEADER AND
DEMAND FOR IMMEDIATE PAYMENT OF AMOUNTS DUE ON ACCOUNT FROM
LIVESTOCK SALES**

COMES NOW Defendant HILLIARD-McKETTTRICK INVESTMENTS, INC., d/b/a
ARCADIA STOCKYARD (hereinafter "Arcadia") and, by and through undersigned counsel,
responds to the *Complaint For Interpleader* of Plaintiff RUSH CREEK RANCH, LLLP

(hereinafter "Rush Creek") filed November 16, 2010 and served via facsimile upon Defendant Arcadia the following day on November 17, 2010 and states as follows:

1. Defendant Arcadia is Hilliard-McKetrick Investments, Inc., a Florida for profit corporation operating under the name of "Arcadia Stockyard" with offices located at 2719 N.E. Earnest Street, Arcadia, Florida 34266.
2. Defendant Arcadia is a market agency selling livestock on a commission basis subject to the jurisdiction of the Packers and Stockyards Act of 1921, 7 U.S.C. §§ 181-229 (the "Stockyards Act").
3. On information and belief Defendant Eastern Livestock Company, LLC (hereinafter "Eastern") is one of the largest livestock brokers in the United States and has regularly purchased or more accurately livestock purchases at Arcadia and other Florida "markets" have been "cleared" through Eastern for many years.
4. On information and belief, Defendant James Byrd a/k/a I. E. Byrd is the principle owner/operator of Defendant Oak Lake Cattle Company, Inc. (collectively hereinafter with I. E. Byrd as "Oak Lake"), a dealer/buyer pursuant to the Stockyards Act.
5. During the "Relevant Time Period" of October and November 2010, Defendant Oak Lake "cleared" livestock purchase transactions through Defendant Eastern. Defendant Oak Lake was the actual buyer at market. Defendant Oak Lake takes title to the livestock purchased when payment is rendered through Eastern to the seller. Eastern had served for many years as "clearing house" for Oak Lake livestock transactions (and many others) on a commission or fee based on the transaction amount.

6. During the Relevant Time Period, Defendant Oak Lake, by and through I. E. Byrd and Dan Byrd, purchased livestock from Defendant Arcadia totaling 175 head, weighing 33615 lbs., at a cost of \$45,928.29 and was invoiced for said purchases on October 20th, 25th, and 27th, and November 1st, and 3rd of 2010 as follows (copies of the actual summary worksheet and invoices are attached hereto as Exhibit A):

Hilliard-McKettrick Investments Inc., d/b/a Arcadia Stockyard				
Invoices Billed from Arcadia to Eastern Per Oak Lake				
<u>Date</u>	<u>Charge Account</u>	<u>No. of Head</u>	<u>Weight</u>	<u>Amount</u>
20-Oct-10	Eastern (E10)	16	3305	5,138.26
20-Oct-10	Eastern (E10X)	17	3240	3,919.23
Totals		33	6545	9,057.49
		I.E. Byrd	Commission	65.45
			Feed	10.00
			Invoice Total	\$9,132.94
25-Oct-10	Eastern #3 (E10)	12	2295	3,598.66
25-Oct-10	Eastern #3 (E10X)	10	1935	2,408.38
Totals		22	4230	6,007.04
		Dan Byrd	Commission	42.30
			Invoice Total	\$6,049.34
27-Oct-10	Eastern #2 (E10)	38	7025	10,460.09
27-Oct-10	Eastern #2 (E10X)	22	4070	4,873.10
Totals		60	11095	15,333.19
		I.E. Byrd	Commission	110.95
			Feed	5.00
			Invoice Total	\$15,449.14
01-Nov-10	Eastern #2 (E10)	10	1975	2,899.67
01-Nov-10	Eastern #2 (E10X)	9	1815	2,134.96
Totals		19	3790	5,034.63
		Dan Byrd	Commission	37.90
			Invoice Total	\$5,072.53
03-Nov-10	Eastern #2 (E10)	17	3190	4,800.01
03-Nov-10	Eastern #2 (E10X)	24	4765	5,344.78
Totals		41	7955	10,144.79
		I.E. Byrd	Commission	79.55
			Invoice Total	\$10,224.34
Total Invoices		175	33615	\$45,928.29

7. Contrary to assertions by Plaintiff Rush Creek, Defendant Eastern did not pay for the livestock. Defendant Eastern submitted to Defendant Arcadia fraudulent and worthless checks returned NSF in violation of Florida law, Section 68.065, Florida Statutes. (Copies of the fraudulent and worthless checks are attached hereto as Exhibit B).

8. Defendant Eastern submitted the following checks with insufficient funds to Defendant Arcadia in violation of Section 68.065, Florida Statutes:

<u>Date</u>	<u>Eastern Ck. No.</u>	<u>Amount</u>
26-Oct-10	123349	\$15,220.99
21-Oct-10	122977	\$21,470.37
28-Oct-10	124749	\$42,078.29
29-Oct-10	124923	\$1,586.95
Total		\$80,356.60

9. On or about October 16, 2010, Plaintiff Rush Creek purchased 165 head of feeder cattle from Defendant Eastern for the price of \$41,208.76. Plaintiff took delivery of the cattle, but did not pay for same and tendered to this Court the sum of \$41,208.76. (A copy of Invoice and Security Agreement #291244 is attached hereto and incorporated herein as Exhibit C).

10. On or about October 16, 2010, Plaintiff Rush Creek purchased 132 head of feeder cattle from Defendant Eastern Livestock for the price of \$34,727.86. Plaintiff took delivery of the cattle, but did not pay for same and tendered to this Court the sum of \$34,727.86. (A copy of Invoice and Security Agreement #291246 is attached hereto and incorporated herein as Exhibit D).

11. On or about October 16, 2010, Plaintiff Rush Creek purchased 198 head of feeder cattle from Defendant Eastern Livestock for the price of \$51,887.76. Plaintiff took delivery of the cattle, but did not pay for same and tendered to this Court the sum of \$51,887.76. A copy of

Invoice and Security Agreement #291251 is attached hereto and incorporated herein as Exhibit E).

12. On or about October 16, 2010, Plaintiff Rush Creek purchased 196 head of feeder cattle from Defendant Eastern Livestock for the price of \$50,408.91. Plaintiff took delivery of the cattle, but did not pay for same and tendered to this Court the sum of \$50,408.91. (A copy of Invoice and Security Agreement #291253 is attached hereto and incorporated herein as Exhibit F).

13. In total Plaintiff Rush Creek has tendered to the Circuit Court of Vernon County, Wisconsin, four cashier's checks in the amount of \$41,208.76; \$34,727.86; \$51,887.76; and \$50,408.91 for a total of \$178,233.29 (hereinafter "Interpled Funds").

14. Neither Plaintiff Rush Creek nor Defendant Eastern have made payment for the amounts owed on account for the 175 head of livestock purchased from Arcadia and for which Plaintiff Rush Creek has taken delivery. See paragraphs 9-12. On information and belief Neither Plaintiff Rush Creek nor Defendant Eastern have made payment to other Defendants for the amounts owed on account for livestock for which Plaintiff Rush Creek has taken delivery.

15. Title to the livestock purchased by Oak Lake and cleared through Eastern pursuant to the transactions enumerated in the following table resides with the Florida markets until paid in full.

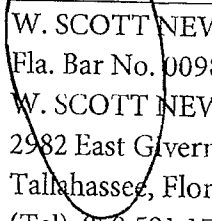
<u>No.</u>	<u>Name Buyer</u>	<u>Invoice Number</u>	<u>Date</u>	<u>Total Head</u>	<u>Amount</u>
1.	Rush Creek Ranch	291244	10/16/10	165	\$41,208.76
2.	Rush Creek Ranch	291253	11/05/10	196	\$50,408.91
3.	Rush Creek Ranch	291251	10/29/10	198	\$51,887.76
4.	Rush Creek Ranch	291246	10/22/10	132	\$34,727.86
5.	D.R. Daniel	291256	11/05/10	58	\$34,373.13

6.	Len Miller	291254	11/05/10	138	\$57,980.33
7.	Len Miller	291248	10/29/10	219	\$90,613.68
8.	Tom Herrmann	291249	10/29/10	73	\$22,884.04
9.	Tommy Berend	291255	11/05/10	42	\$17,982.13
10.	Tommy Berend	291250	10/29/10	63	\$27,161.82
11.	Jacob Larson	291252	11/04/10	49	\$14,547.61
TOTAL				1,333	\$443,776.03

16. Plaintiff Rush Creek and this Interpleader are implicated only with respect to Item Nos. 1-4 in the above table, or the Interpled Funds in the amount totaling \$178,233.29.

WHEREFORE for the reasons catalogued above and pursuant Florida and Wisconsin law, Defendant Arcadia makes demand herein against the Interpled Funds in the amount of FORTY-FIVE THOUSAND NINE HUNDRED TWENTY-EIGHT AND 29/100 DOLLARS (\$45,928.29) for immediate payment pursuant to the Invoices identified in paragraph 6 above and in the copies attached hereto as Exhibit A.

Respectfully submitted this 3RD day of December 2010.



W. SCOTT NEWBERN
Fla. Bar No. 0098108
W. SCOTT NEWBERN, P.L.
2982 East Giverny Circle
Tallahassee, Florida 32309
(Tel) 850.591.1701
(Fax) 850.894.0871

COUNSEL FOR HILLIARD-McKETTICK
INVESTMENTS, INC., d/b/a ARCADIA
STOCKYARD

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to the following by facsimile this 3rd day of December 2010.

David L. Abt
ABT LAW OFFICE
210 North Main St.
P.O. Box 128
Westby, WI 54667
T: 608.634.2157
F: 608.634.2159



W. SCOTT NEWBERN

Exhibit A

Rush Creek Ranch LLLP
a Colorado Limited Liability Partnership
8121 Ludlow Ave
Viroqua WI 54665

Invoices Billed from Arcadia Stockyard to Eastern Livestock by I E Byrd

Date	Charge Account	No. of Head	Weight	Money
10/20/2010	Eastern (E 10)	16	3305	5138.26
10/20/2010	Eastern (E 10X)	17	3240	3919.23
	Total	33	6545	9,057.49
	I E Byrd	Commission		65.45
		Feed		10.00
		Invoice Total		\$9,132.94
10/25/2010	Eastern #3 (E10)	12	2295	3598.66
10/25/2010	Eastern #3 (E10X)	10	1935	2408.38
	Total	22	4230	6007.04
	Dan Byrd	Commission		42.30
		Invoice Total		\$6,049.34
10/27/2010	Eastern #2 (E10)	38	7025	10,460.09
10/27/2010	Eastern #2 (E10X)	22	4070	4,873.10
	Total	60	11095	15,333.19
	I E Byrd	Commission		110.95
		Feed		5.00
		Invoice Total		\$15,449.14
11/1/2010	Eastern #2 (E10)	10	1975	2899.67
11/1/2010	Eastern #2 (E10X)	9	1815	2134.96
	Total	19	3790	5034.63
	Dan Byrd	Commission		37.90
		Invoice Total		\$5,072.53
11/3/2010	Eastern #2 (E10)	17	3190	4800.01
11/3/2010	Eastern #2 (E10X)	24	4765	5344.78
	Total	41	7955	10144.79
	I E Byrd	Commission		79.55
		Invoice Total		\$10,224.34
Total of Invoices Listed Above		No of Head	Weight	Money
		175	33615	\$45,928.29

We Act as Agents
for the Producers of Livestock



P. O. Box 1413
Arcadia, FL 34265
(863) 494-3737

Buyer 192
EASTERN LIVESTOCK
BOUGHT BY: 135 WEST MARKET
ADDRESS: NEW ALBANY, IN 47150-

*** RECAP SUMMARY ***

AGENT # 8
10/20/2010 21:13:06
I E BYRD
PO BOX 1284
OKEECHOBEE, FL 34973-

NO.	TAG	PEN	DESCRIPTION	WEIGHT	PRICE	AMOUNT	
Charge Account	Number Head	Total Weight	Total Amount	Avg Weight	Avg Price	Avg Amount	Pen Number
E 10	16	3305	5138.26	207	155.47	321.14	527
E 10X	17	3240	3919.23	191	120.96	230.54	527
	33	6545	9057.49				

Feed By The Unit 10/13-10/19 Units: 1.00 Rate Per Unit: 10.00 10.00
Commission: Paid to Agent Per CWT 1.00 6545 lbs. 65.45

Total Head 33
Total Weight 6545
Purchases 9,057.49
Total Commission 65.45
Feed Charges: 10.00

Total Bill 9,132.94 Charged (Due Buyer)

ALL BREED BULL SALE NOVEMBER 5TH AT 1:00 PM
ANGUS & CHAROLAIS BULL SALE NOVEMBER 12TH AT 1:00 PM

I ATTEST THAT ALL LIVESTOCK REFERENCED BY THIS DOCUMENT AND TRANSFERRED ARE OF USA ORIGIN

Carl McKeith

We Act as Agents
for the Producers of Livestock



P. O. Box 1418
Arcadia, FL 34265
(863) 494-3737

Buyer 192
EASTERN LIVESTOCK
BOUGHT BY: 135 WEST MARKET
ADDRESS: NEW ALBANY, IN 47150-

E 10

AGENT # 8
10/20/2010 21:13:05
I E BYRD
PO BOX 1284
OKEECHOBEE, FL 34973-

NO.	TAG	PEN	DESCRIPTION	WEIGHT	PRICE	AMOUNT
1 HD	10017	527	STRCLF	170	125.00	212.50
1 HD	10167	527	STRCLF	200	185.00	370.00
1 HD	10420	527	STRCLF	210	185.00	388.50
1 HD	10429	527	STRCLF	210	150.00	315.00
1 HD	10676	527	STRCLF	200	150.00	300.00
1 HD	10697	527	STRCLF	205	157.50	322.88
1 HD	10703	527	STRCLF	210	85.00	178.50
1 HD	10858	527	STRCLF	230	140.00	322.00
1 HD	10903	527	STRCLF	220	165.00	363.00
1 HD	10909	527	STRCLF	220	130.00	286.00
1 HD	10912	527	STRCLF	215	165.00	354.75
1 HD	11032	527	STRCLF	205	175.00	358.75
1 HD	11271	527	STRCLF	210	167.50	351.75
1 HD	11419	527	STRCLF	205	170.00	348.50
1 HD	11530	527	STRCLF	200	160.00	320.00
1 HD	11556	527	STRCLF	195	177.50	346.13
16	Total Purchases			3305		5,138.26

I ATTEST THAT ALL LIVESTOCK REFERENCED BY THIS DOCUMENT AND TRANSFERRED ARE OF USA ORIGIN

Carl McHettich

We Act as Agents
for the Producers of Livestock



P. O. Box 1413
Arcadia, FL 34265
(863) 494-3737

Buyer 192
EASTERN LIVESTOCK
BOUGHT BY 135 WEST MARKET
ADDRESS: NEW ALBANY, IN 47150-

E 10X

AGENT # 3
10/20/2010 21:13:05
I E BYRD
PO BOX 1284
CKEECHOBEE, FL 34973-

NO.	TAG	PEN	DESCRIPTION	WEIGHT	PRICE	AMOUNT
1 HD	10135	527	HFRCLF	195	109.00	212.55
1 HD	10137	527	HFRCLF	170	140.00	238.00
1 HD	10399	527	HFRCLF	170	135.00	229.50
1 HD	10415	527	HFRCLF	175	125.00	218.75
1 HD	10457	527	HFRCLF	185	105.00	194.25
1 HD	10900	527	HFRCLF	210	122.00	256.20
1 HD	10906	527	HFRCLF	175	112.50	196.88
1 HD	10916	527	HFRCLF	180	122.00	219.60
1 HD	11055	527	HFRCLF	195	115.00	224.25
1 HD	11071	527	HFRCLF	215	116.00	249.40
1 HD	11241	527	HFRCLF	195	110.00	214.50
1 HD	11270	527	HFRCLF	180	118.00	212.40
1 HD	11272	527	HFRCLF	190	120.00	228.00
1 HD	11447	527	HFRCLF	205	105.00	215.25
1 HD	11465	527	HFRCLF	210	170.50	358.05
1 HD	11547	527	HFRCLF	205	103.00	211.15
1 HD	11571	527	HFRCLF	185	130.00	240.50
17	Total Purchases			3240		3,919.23

I ATTEST THAT ALL LIVESTOCK REFERENCED BY THIS DOCUMENT AND TRANSFERRED ARE OF USA ORIGIN

Carl McKeith

We Act as Agents
for the Producers of Livestock



P. O. Box 1418
Arcadia, FL 34265
(863) 494-3737

Buyer 327
EASTERN LIVESTOCK #3
BOUGHT BY: 135 WEST MARKET
ADDRESS: NEW ALBANY, IN 10373-

*** RECAP SUMMARY ***

AGENT # 5420
10/25/2010 16:35:06
DAN BYRD
PO BOX 2057
OKEECHOBEE, FL 34972-

NO.	TAG	PEN	DESCRIPTION	WEIGHT	PRICE	AMOUNT	
Charge Account	Number Head	Total Weight	Total Amount	Avg Weight	Avg Price	Avg Amount	Pen Number
E 10	12	2295	3598.66	191	156.80	299.89	527
E 10X	10	1935	2408.38	194	124.46	240.84	527
	22	4230	6007.04				

Commission: Paid to Agent Per CWT 1.00 4230 lbs. 42.30

Total Head 22
Total Weight 4230
Purchases 6,007.04
Total Commission 42.30

Total Bill 6,049.34 Charged (Due Buyer)

ALL BREED BULL SALE NOVEMBER 5TH AT 1:00 PM
ANGUS & CHAROLAIS BULL SALE NOVEMBER 12TH AT 1:00 PM

I ATTEST THAT ALL LIVESTOCK REFERENCED BY THIS DOCUMENT AND TRANSFERRED ARE OF USA ORIGIN

Carl McKeith

We Act as Agents
for the Producers of Livestock



P. O. Box 1418
Arcadia, FL 34265
(863) 494-3737

Buyer 327
EASTERN LIVESTOCK #3
BOUGHT BY: 135 WEST MARKET
ADDRESS: NEW ALBANY, IN 10373-

E 10

AGENT # 5420
10/25/2010 16:35:04
DAN BYRD
PO BOX 2057
OKEECHOBEE, FL 34972-

NO.	TAG	PEN	DESCRIPTION	WEIGHT	PRICE	AMOUNT
1 HD	10009	527	STRCLF RP	210	157.50	330.75
1 HD	10039	527	STRCLF	205	160.00	328.00
1 HD	10043	527	STRCLF	180	170.00	306.00
1 HD	10046	527	STRCLF	175	170.00	297.50
1 HD	10137	527	STRCLF	205	162.50	333.13
1 HD	10154	527	STRCLF	195	152.50	297.38
1 HD	10403	527	STRCLF	180	170.00	306.00
1 HD	10412	527	STRCLF	165	126.00	207.90
1 HD	10529	527	STRCLF	180	135.00	243.00
1 HD	10559	527	STRCLF	220	155.00	341.00
1 HD	10566	527	STRCLF	190	170.00	323.00
1 HD	10598	527	STRCLF	190	150.00	285.00
12	Total Purchases			2295		3,598.66

I ATTEST THAT ALL LIVESTOCK REFERENCED BY THIS DOCUMENT AND TRANSFERRED ARE OF USA ORIGIN

Carl McKeith

We Act as Agents
for the Producers of Livestock



P. O. Box 1418
Arcadia, FL 34265
(863) 494-3737

Buyer 327
EASTERN LIVESTOCK #3
BOUGHTBY: 135 WEST MARKET
ADDRESS: NEW ALBANY, IN 10373-

E 10X

AGENT # 5420
10/25/2010 16:35:04
DAN BYRD
PO BOX 2057
OKEECHOBEE, FL 34972-

NO.	TAG	PEN	DESCRIPTION	WEIGHT	PRICE	AMOUNT
1 HD	10041	527	HFRCLF	215	126.00	270.90
1 HD	10048	527	HFRCLF	210	127.50	267.75
1 HD	10054	527	HFRCLF	205	126.00	258.30
1 HD	10124	527	HFRCLF	205	114.00	233.70
1 HD	10138	527	HFRCLF	195	127.50	248.63
1 HD	10164	527	HFRCLF	155	132.00	204.60
1 HD	10165	527	HFRCLF	200	122.00	244.00
1 HD	10258	527	HFRCLF	180	122.50	220.50
1 HD	10436	527	HFRCLF	160	130.00	208.00
1 HD	10545	527	HFRCLF	210	120.00	252.00
10	Total Purchases			1935		2,408.38

I ATTEST THAT ALL LIVESTOCK REFERENCED BY THIS DOCUMENT AND TRANSFERRED ARE OF USA ORIGIN

Carl McKeith

We Act as Agents
for the Producers of Livestock



P. O. Box 1418
Arcadia, FL 34265
(863) 494-3737

Buyer 338
EASTERN LIVESTOCK #2
BOUGHTBY: 135 WEST MARKET
ADDRESS: NEW ALBANY, IN 47150-

*** RECAP SUMMARY ***

AGENT # 8
10/27/2010 22:44:40
I E BYRD
PO BOX 1284
OKEECHOBEE, FL 34973-

INVENTORY LIST							
NO.	TAG		PEN	DESCRIPTION	WEIGHT	PRICE	AMOUNT
Charge Account	Number Head	Total Weight	Total Amount	Avg Weight	Avg Price	Avg Amount	Pen Number
E 10	38	7025	10460.09	185	148.90	275.27	527
E 10X	22	4070	4873.10	185	119.73	221.50	527
	60	11095	15333.19				

General Feed Charge: 10/20-10/26

Commission: Paid to Agent

Per CWT 1.00 11095 lbs. 5.00
110.95

Total Head 60
Total Weight 11095
Purchases 15,333.19
Total Commission 110.95
Feed Charges: 5.00

Total Bill 15,449.14 Charged (Due Buyer)

ALL BREED BULL SALE NOVEMBER 5TH AT 1:00 PM
ANGUS & CHAROLAIS BULL SALE NOVEMBER 12TH AT 1:00 PM

I ATTEST THAT ALL LIVESTOCK REFERENCED BY THIS DOCUMENT AND TRANSFERRED ARE OF USA ORIGIN

Carl McKeith

We Act as Agents
for the Producers of Livestock



P. O. Box 1418
Arcadia, FL 34265
(863) 494-3737

AGENT # 8
10/27/2010 22:41:06
I E BYRD
PO BOX 1284
OKEECHOBEE, FL 34973-

Buyer 338
EASTERN LIVESTOCK #2
BOUGHT BY: 135 WEST MARKET
ADDRESS: NEW ALBANY, IN 47150-

E 10

NO.	TAG	PEN	DESCRIPTION	WEIGHT	PRICE	AMOUNT
1 HD	10006	527	STRCLF RP	210	145.00	304.50
1 HD	10016	527	STRCLF	180	180.00	324.00
1 HD	10029	527	STRCLF	170	175.00	297.50
1 HD	10260	527	STRCLF	150	155.00	232.50
1 HD	10323	527	STRCLF	210	172.00	361.20
1 HD	10748	527	STRCLF	185	130.00	240.50
1 HD	10997	527	STRCLF	195	185.00	360.75
1 HD	11000	527	STRCLF	200	175.00	350.00
1 HD	11082	527	STRCLF	245	140.00	343.00
1 HD	11138	527	STRCLF	180	175.00	315.00
1 HD	11168	527	STRCLF	190	170.00	323.00
1 HD	11174	527	STRCLF	175	185.00	323.75
1 HD	11175	527	STRCLF	140	140.00	196.00
1 HD	11176	527	STRCLF	175	175.00	306.25
1 HD	11187	527	STRCLF	150	145.00	217.50
1 HD	11217	527	STRCLF	200	160.00	320.00
1 HD	11240	527	STRCLF	210	160.00	336.00
1 HD	11246	527	STRCLF	200	110.00	220.00
1 HD	11248	527	STRCLF	195	125.00	243.75
1 HD	11266	527	STRCLF	180	165.00	297.00
1 HD	11271	527	STRCLF	155	110.00	170.50
1 HD	11552	527	STRCLF	215	140.00	301.00
1 HD	11553	527	STRCLF	185	152.50	282.13
1 HD	11568	527	STRCLF	195	167.50	326.63
1 HD	11570	527	STRCLF	195	150.00	292.50
1 HD	11585	527	STRCLF	205	125.00	256.25
1 HD	11596	527	STRCLF	175	130.00	227.50
1 HD	11600	527	STRCLF	150	109.00	163.50
1 HD	11601	527	STRCLF	170	170.00	289.00
1 HD	11622	527	STRCLF	135	145.00	195.75
1 HD	11668	527	STRCLF	125	120.00	150.00
1 HD	11695	527	STRCLF	215	132.50	284.88
1 HD	11705	527	STRCLF	175	160.00	280.00
1 HD	11798	527	STRCLF	200	145.00	290.00
1 HD	11854	527	STRCLF	160	150.00	240.00
1 HD	11923	527	HFRCLF	215	115.00	247.25
1 HD	11928	527	STRCLF	200	125.00	250.00

Continued on next page...

We Act as Agents
for the Producers of Livestock



P. O. Box 1418
Arcadia, FL 34265
(863) 494-3737

Buyer 338
EASTERN LIVESTOCK #2
BOUGHT BY: 135 WEST MARKET
ADDRESS: NEW ALBANY, IN 47150-

E 10

AGENT # 8
10/27/2010 22:41:06
I E BYRD
PO BOX 1284
OKEECHOBEE, FL 34973-

NO.	TAG	PEN	DESCRIPTION	WEIGHT	PRICE	AMOUNT
1 HD	11940	527	STRCLF	215	140.00	301.00
38	Total Purchases			7025		10,460.09

I ATTEST THAT ALL LIVESTOCK REFERENCED BY THIS DOCUMENT AND TRANSFERRED ARE OF USA ORIGIN

Carl McHethun

We Act as Agents
for the Producers of Livestock



P. O. Box 1418
Arcadia, FL 34265
(863) 494-3737

Buyer 338
EASTERN LIVESTOCK #2
BOUGHT BY 135 WEST MARKET
ADDRESS: NEW ALBANY, IN 47150-

E 10X

AGENT # 8
10/27/2010 22:41:06
I E BYRD
PO BOX 1284
OKEECHOBEE, FL 34973-

NO.	TAG	PEN	DESCRIPTION	WEIGHT	PRICE	AMOUNT
1 HD	10199	527	HFRCLF	175	130.00	227.50
1 HD	10210	527	HFRCLF	125	110.00	137.50
1 HD	10268	527	HFRCLF	155	146.00	226.30
1 HD	10338	527	HFRCLF	215	120.00	258.00
1 HD	10556	527	HFRCLF	190	174.00	330.60
1 HD	10744	527	HFRCLF	160	138.00	220.80
1 HD	10779	527	HFRCLF	200	112.00	224.00
1 HD	10793	527	HFRCLF	190	124.00	235.60
1 HD	11171	527	HFRCLF	140	152.50	213.50
1 HD	11215	527	HFRCLF	210	110.00	231.00
1 HD	11230	527	HFRCLF	175	128.00	224.00
1 HD	11231	527	HFRCLF	150	95.00	142.50
1 HD	11255	527	HFRCLF	200	122.00	244.00
1 HD	11270	527	HFRCLF	190	95.00	180.50
1 HD	11294	527	HFRCLF	210	117.00	245.70
1 HD	11478	527	HFRCLF	205	100.00	205.00
1 HD	11506	527	HFRCLF	200	115.00	230.00
1 HD	11579	527	HFRCLF	210	110.00	231.00
1 HD	11589	527	HFRCLF	215	105.00	225.75
1 HD	11593	527	HFRCLF	195	105.00	204.75
1 HD	11851	527	HFRCLF	205	120.00	246.00
1 HD	11936	527	HFRCLF	155	122.00	189.10
22	Total Purchases			4070		4,873.10

I ATTEST THAT ALL LIVESTOCK REFERENCED BY THIS DOCUMENT AND TRANSFERRED ARE OF USA ORIGIN

Carl McKeith

We Act as Agents
for the Producers of Livestock



P. O. Box 1418
Arcadia, FL 34265
(863) 494-3737

Buyer 338
EASTERN LIVESTOCK #2
BOUGHT BY: 135 WEST MARKET
ADDRESS: NEW ALBANY, IN 47150-

*** RECAP SUMMARY ***

AGENT # 5420
11/01/2010 17:11:01
DAN BYRD
PO BOX 2057
OKEECHOBEE, FL 34972-

NO.	TAG	PEN	DESCRIPTION	WEIGHT	PRICE	AMOUNT
-----	-----	-----	-------------	--------	-------	--------

Charge Account	Number Head	Total Weight	Total Amount	Avg Weight	Avg Price	Avg Amount	Pen Number
E 10	10	1975	2899.67	198	146.82	289.97	527
E 10X	9	1815	2134.96	202	117.63	237.22	527
	19	3790	5034.63				

Commission: Paid to Agent Per CWT 1.00 3790 lbs. 37.90

Total Head 19
Total Weight 3790
Purchases 5,034.63
Total Commission 37.90

Total Bill 5,072.53 Charged (Due Buyer)

ALL BREED BULL SALE NOVEMBER 5TH AT 1:00 PM
ANGUS & CHAROLAIS BULL SALE NOVEMBER 12TH AT 1:00 PM

I ATTEST THAT ALL LIVESTOCK REFERENCED BY THIS DOCUMENT AND TRANSFERRED ARE OF USA ORIGIN

Carl McKeithen

We Act as Agents
for the Producers of Livestock



P. O. Box 1418
Arcadia, FL 34265
(863) 494-3737

Buyer 338
EASTERN LIVESTOCK #2
BOUGHTBY: 135 WEST MARKET
ADDRESS: NEW ALBANY, IN 47150-

E 10

AGENT # 5420
11/01/2010 17:11:00
DAN BYRD
PO BOX 2057
OKEECHOBEE, FL 34972-

NO.	TAG	PEN	DESCRIPTION	WEIGHT	PRICE	AMOUNT
1 HD	10060	527	STRCLF	165	110.00	181.50
1 HD	10091	527	STRCLF	160	99.00	158.40
1 HD	10097	527	STRCLF	205	137.50	281.88
1 HD	10155	527	STRCLF	220	147.50	324.50
1 HD	10165	527	STRCLF YP	180	147.50	265.50
1 HD	10189	527	STRCLF	215	160.00	344.00
1 HD	10195	527	STRCLF	215	165.00	354.75
1 HD	10199	527	STRCLF	205	167.50	343.38
1 HD	10284	527	STRCLF	205	162.50	333.13
1 HD	10487	527	STRCLF	205	152.50	312.63
10	Total Purchases			1975		2,899.67

I ATTEST THAT ALL LIVESTOCK REFERENCED BY THIS DOCUMENT AND TRANSFERRED ARE OF USA ORIGIN

Carl McHethun

We Act as Agents
for the Producers of Livestock



P. O. Box 1418
Arcadia, FL 34265
(863) 494-3737

AGENT # 5420

11/01/2010 17:11:00

DAN BYRD

PO BOX 2057

OKEECHOBEE, FL 34972-

Buyer 338

EASTERN LIVESTOCK #2

135 WEST MARKET

E 10X

BOUGHT BY: ADDRESS: NEW ALBANY, IN 47150-

NO.	TAG	PEN	DESCRIPTION	WEIGHT	PRICE	AMOUNT
1 HD	10054	527	HFRCLF	215	122.50	263.38
1 HD	10077	527	HFRCLF	195	98.00	191.10
1 HD	10162	527	HFRCLF	230	111.00	255.30
1 HD	10200	527	HFRCLF	225	117.50	264.38
1 HD	10226	527	HFRCLF	165	110.00	181.50
1 HD	10245	527	HFRCLF	215	140.00	301.00
1 HD	10274	527	HFRCLF	210	113.00	237.30
1 HD	10281	527	HFRCLF	160	110.00	176.00
1 HD	10292	527	HFRCLF	200	132.50	265.00

9 Total Purchases 1815 2,134.96

I ATTEST THAT ALL LIVESTOCK REFERENCED BY THIS DOCUMENT AND TRANSFERRED ARE OF USA ORIGIN

Carl McKeith

We Act as Agents
for the Producers of Livestock



P. O. Box 1418
Arcadia, FL 34265
(863) 494-3737

Buyer 338
EASTERN LIVESTOCK #2
BOUGHTBY: 135 WEST MARKET
ADDRESS: NEW ALBANY, IN 47150-

*** RECAP SUMMARY ***

AGENT # 8
11/03/2010 21:41:38
I E BYRD
PO BOX 1284
OKEECHOBEE, FL 34973-

NO.	TAG	PEN	DESCRIPTION	WEIGHT	PRICE	AMOUNT	
Charge Account	Number Head	Total Weight	Total Amount	Avg Weight	Avg Price	Avg Amount	Pen Number
E 10	17	3190	4800.01	188	150.47	282.35	511
E 10X	24	4765	5344.78	199	112.17	222.70	511
	41	7955	10144.79				

Commission: Paid to Agent Per CWT 1.00 7955 lbs. 79.55

Total Head 41
Total Weight 7955
Purchases 10,144.79
Total Commission 79.55

Total Bill 10,224.34 Charged (Due Buyer)

ALL BREED BULL SALE NOVEMBER 5TH AT 1:00 PM
ANGUS & CHAROLAIS BULL SALE NOVEMBER 12TH AT 1:00 PM

I ATTEST THAT ALL LIVESTOCK REFERENCED BY THIS DOCUMENT AND TRANSFERRED ARE OF USA ORIGIN

Carl McKeith

We Act as Agents
for the Producers of Livestock



P. O. Box 1418
Arcadia, FL 34265
(863) 494-3737

Buyer 338
EASTERN LIVESTOCK #2
BOUGHT BY: 135 WEST MARKET
ADDRESS: NEW ALBANY, IN 47150-

E 10

AGENT # 8
11/03/2010 21:41:36
I E BYRD
PO BOX 1284
OKEECHOBEE, FL 34973-

NO.	TAG	PEN	DESCRIPTION	WEIGHT	PRICE	AMOUNT
1 HD	10015	511	STRCLF	225	160.00	360.00
1 HD	10018	511	STRCLF	215	160.00	344.00
1 HD	10502	511	STRCLF	220	172.50	379.50
1 HD	10538	511	STRCLF	165	210.00	346.50
1 HD	10542	511	STRCLF	175	175.00	306.25
1 HD	10563	511	STRCLF	195	130.00	253.50
1 HD	10568	511	STRCLF	155	125.00	193.75
1 HD	10573	511	STRCLF	210	165.00	346.50
1 HD	10574	511	STRCLF	125	125.00	156.25
1 HD	10576	511	STRCLF	195	170.00	331.50
1 HD	10584	511	STRCLF	170	130.00	221.00
1 HD	10629	511	STRCLF	205	170.00	348.50
1 HD	10693	511	STRCLF	205	132.50	271.63
1 HD	11236	511	STRCLF	195	127.50	248.63
1 HD	11298	511	STRCLF	215	110.00	236.50
1 HD	11333	511	STRCLF OP	160	165.00	264.00
1 HD	11397	511	STRCLF	160	120.00	192.00
17.	Total Purchases			3190		4,800.01

I ATTEST THAT ALL LIVESTOCK REFERENCED BY THIS DOCUMENT AND TRANSFERRED ARE OF USA ORIGIN

Carl McKeithen

We Act as Agents
for the Producers of Livestock



P. O. Box 1418
Arcadia, FL 34265
(863) 494-3737

Buyer 338
EASTERN LIVESTOCK #2
BOUGHT BY: 135 WEST MARKET
ADDRESS: NEW ALBANY, IN 47150-

E 10X

AGENT # 8
11/03/2010 21:41:36
I E BYRD
PO BOX 1284
OKEECHOBEE, FL 34973-

NO.	TAG	PEN	DESCRIPTION	WEIGHT	PRICE	AMOUNT
1 HD	10425	511	HFRCLF	190	130.00	247.00
1 HD	10483	511	HFRCLF	195	103.00	200.85
1 HD	10504	511	HFRCLF	220	112.50	247.50
1 HD	10523	511	HFRCLF	215	122.50	263.38
1 HD	10528	511	HFRCLF	220	110.00	242.00
1 HD	10530	511	HFRCLF	190	120.00	228.00
1 HD	10546	511	HFRCLF	190	112.00	212.80
1 HD	10551	511	HFRCLF	180	108.00	194.40
1 HD	10554	511	HFRCLF	190	125.00	237.50
1 HD	10561	511	HFRCLF	215	105.00	225.75
1 HD	10572	511	HFRCLF	135	125.00	168.75
1 HD	10577	511	HFRCLF	195	105.00	204.75
1 HD	10628	511	HFRCLF	205	110.00	225.50
1 HD	10756	511	HFRCLF	180	128.00	230.40
1 HD	10784	511	HFRCLF	200	115.00	230.00
1 HD	10795	511	HFRCLF	215	114.00	245.10
1 HD	10832	511	HFRCLF	220	119.00	261.80
1 HD	10908	511	HFRCLF	215	105.00	225.75
1 HD	11205	511	HFRCLF	205	114.00	233.70
1 HD	11272	511	HFRCLF	185	110.00	203.50
1 HD	11284	511	HFRCLF	245	107.00	262.15
1 HD	11415	511	HFRCLF	190	95.00	180.50
1 HD	11580	511	HFRCLF	185	102.00	188.70
1 HD	11621	511	HFRCLF	185	100.00	185.00
24	Total Purchases			4765		5,344.78

I ATTEST THAT ALL LIVESTOCK REFERENCED BY THIS DOCUMENT AND TRANSFERRED ARE OF USA ORIGIN

Carl McKeith

Exhibit B


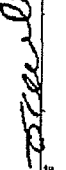
NSF

063102152
11/04/2010
5793

THIS is a LEGAL COPY of your check. You can use it the same way you would use the original check.

RETURN REASON-A
NOT SUFFICIENT FUNDS

0102/10/11 [251201590]
06529206

 EASTERN LIVESTOCK CO., LLC PAY TO THE ORDER OF		125 West Market New Albany IN 47150 812-946-8865	No 123349 87
DATE	CHECK NO.	AMOUNT	
10/18/26	123349	***15,220.99	
ARCADIA STOCKYARD P.O. DRAWER 1418 ARCADIA, FL 34265		SIGNATURE 	

123349 410421002721 74804937791 00015220991

SUNTRUST BANK

1-800-786-8787

Date: Nov 4, 2010 Advice D-704928

The following deposited check(s) were returned to SunTrust unpaid. The amount of the check(s) has been deducted from your account.
Service Charge Total: Analysis

Acct: 1751000029808903

SEQ # ITEM AMOUNT
005793 15,220.99

HILLIARD-MCKETTRICK INVESTMENTS INC D/B/
ARCADIA STOCKYARD
CUSTODIAL ACCOUNT FOR SHIPPERS' PROCEEDS
1922 NE LIVINGSTON ST
ARCADIA FL 34266-4572

1 Item charged totaling \$15,220.99

Advice Total \$15,220.99

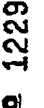
*1023331981 0010000298089031 00007049281

215E
0102/EN/TT
25T20TE90

This is a LEGAL COPY of your check. You can use it the same way you would use the original check.

RETURN REASON-S
REFER TO MAKER

REFER TO MAKER

 EASTERN INVESTMENT CO., LLC		No 122977	
185 West Market New Albany, IN 47150 812-949-9095		Fifth Third Bank New York Branch	
PAY TO THE ORDER OF		DATE 10/10/21	CHECK No. 122977
ARCADIA STOCKYARD P.O. DRAWER 1418 ARCADIA, FL 34265		AMOUNT ***21,470.37	
122977 2042100272 7480493779		SIGNATURE <i>[Signature]</i>	

1111 122977 42042100272 7480493779 1002147037

SUNTRUST BANK

1-800-786-8787

Date: Nov 3, 2010 Advice D-700774

Acct: 175/1000029808903

The following deposited check(s) were returned to SunTrust unpaid. The amount of the check(s) has been deducted from your account.

Service Charge Total: Analysis

003517	21,470.37
SEQ #	ITEM AMOUNT

HILLIARD-MCKETTRICK INVESTMENT'S INC D/B/
ARCADIA STOCKYARD
CUSTODIAL ACCOUNT FOR SHIPPERS' PROCEEDS
1922 NE LIVINGSTON ST
ARCADIA FL 34266-4572

1 Item charged totaling \$21,470.37

Advice Total \$21,470.37

1:4023331931: 00100002980890310 000070077410

No 124749

PLEASE DETACH THIS PORTION BEFORE DEPOSITING CHECK

CHECK NUMBER: 124749 CHECK DATE: 10/10/28 CHECK AMOUNT: 42,078.29

101028 60H @ 11095#
101028 70H @ 28225#

15,444.14
26,634.15

EASTERN LIVESTOCK CO., LLC

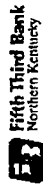


PAY TO THE ORDER OF

EASTERN LIVESTOCK CO., LLC

135 West Market
New Albany, IN 47150
812-949-9035

No 124749



73-27
421

DATE	CHECK No.	AMOUNT
10/10/28	124749 *	42,078.29

ARCADIA STOCKYARD

P.O. DRAWER 1418
ARCADIA, FL 34265

[Signature]

SIGNATURE

⑈124749⑈ ⑈062100272⑈ 7480493779⑈

No 124923

PLEASE DETACH THIS PORTION BEFORE DEPOSITING CHECK

CHECK NUMBER: 124923 CHECK DATE: 10/10/29 CHECK AMOUNT: 1,586.95
 101029 6H 0 1545# 00000 1,586.95

EASTERN LIVESTOCK CO., LLC

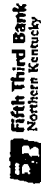


PAY TO THE ORDER OF

EASTERN LIVESTOCK CO., LLC

135 West Market
 New Albany, IN 47150
 812-949-9035

No 124923



DATE	CHECK No.	AMOUNT
10/10/29	124923 **	*****1,586.95

SIGNATURE *Beard*

ARCADIA STOCKYARD

P.O. DRAWER 1418
 ARCADIA, FL 34266

⑈124923⑈ ⑆042100272⑆ 7480493779⑈

Exhibit C

Nov 16. 2310 9:45AM

INVOICE AND SECURITY AGREEMENT

No. 9516 P. 12

DATE 10/16/10

INVOICE NO. 291244

Eastern Livestock Co., LLC

SOLD TO RUSH CREEK RANCH SHIP TO Don Quincey
Address 8121 Ludlow Ave. Address /
City-State-Zip VIRAGUA, W. 54665 City-State-Zip CARLETON, FL.

Specifically subject to all terms, conditions, and provisions appearing upon the reverse side of this instrument.

Number Head	Kind	Weight	Averages	Amount
B2	#10 Bm	15,240	186 / 144. ⁹³	22,087.33
B3	#10x Nm	15,795	190 / 121. ⁸⁶	19,121.43
TOTALS	165			41,208.76

TRUCKER: SITZMAN D / 1407 / VAN LINS

COMMISSION _____

VETERINARY _____

TRUCKING DLV D.

OTHER _____

TOTAL 41,208.76

FROM: OLC #22 REPORTING OFFICER DATE 11-1-83 TIME 11:00 LOCATION 1100

DATE OF ON # 167 IN THE BUREAU OF
FBI & 1200 11-9-78 260 014

78 402507

DEPT. OF JUSTICE, WASHINGTON, D.C. 20535

Signature

Please Remit to: EASTERN LIVESTOCK CO., LLC
136 West Market
New Albany, IN 47150
812-849-9035

FAXED

Exhibit D

DATE 10/22/10

INVOICE NO. 291246

City-State-Zip CLEVELAND, OH

Please Remit to: **EASTERN LIVESTOCK CO., LLC**
135 West Market
New Albany, IN 47150
812-848-9035

Exhibit E

No. 9516 P. 1)

INVOICE NO. 291251

SOLD TO RUSH CREEK RANCH SHIP TO Don Quincey
Address 8121 Lusk Ave Address /
City-State-Zip VIROQUA WIS. 54665 City-State-Zip CH. OF LAND, FL.

Please Remit to: **EASTERN LIVESTOCK CO., LLC**
135 West Market
New Albany, IN 47150
812-849-8095

Exhibit F

Nov. 16. 2010 9:44AM

INVOICE AND SECURITY AGREEMENT

No. 9516 P. 11

DATE 11/5/10INVOICE NO. 291253

Eastern Livestock Co., LLC

SOLD TO RUSH CROOK RANCH SHIP TO Don Quincey
 Address 8121 LUDLOW AVE. Address /
 City/State/Zip VERMONT, VT. 54665 City/State/Zip CHIEFLAND, FL.

Specifically subject to all terms, conditions, and provisions
 appearing upon the reverse side of this instrument.

Number Head	Kind	Weight	Averages	Amount
85	#10 STE	16,715	197 / 145.27	24,201.88
111	#10% HEF	22,570	203 / 115.76	26,127.03
		1.48 250	+ .0356 = 4.02	
		(PR) + Comm =	3.98 + 14.5	
TOTALS	196	39285		50,408.91

TRUCKER: SUZANNE / VARIOUSCOMMISSION 992.13VETERINARY 44.55TRUCKING 537.33OTHER FEES 14.00TOTAL 50,408.91FROM: OLE #22

INVOICE NUMBER 291253 FOR THE SELLER

196 - 14th PURCHASE
 1000 1280 148 300 280 314

FAXED

AL
 PMLDO NOT DEDUC THE
 1.00 PER HEAD BEEF PROMOTION - 11/5/10
 BEST LIVING REGISTERED NO. 11-024S. B. 11/5/10
 SIGNATURE

Please Remit to: EASTERN LIVESTOCK CO., LLC
 136 West Market
 New Albany, IN 47150
 812-848-9935

STATE OF WISCONSIN

CIRCUIT COURT

VERNON COUNTY

RUSH CREEK RANCH, L.L.P.,
a Colorado limited liability limited partnership,

Plaintiff,

-vs-

EASTERN LIVESTOCK COMPANY, LLC,
ARCADIA STOCKYARD,
CATTLEMEN'S LIVESTOCK MARKET,
COLUMBIA LIVESTOCK MARKET
OF LAKE CITY, INC.,
HARDEE LIVESTOCK MARKET, INC.,
NORTH FLORIDA LIVESTOCK MARKET,
OCALA LIVESTOCK MARKET, INC.,
OKEECHOBEE LIVESTOCK MARKET,
SUMTER COUNTY FARMER'S MARKET, INC.,
TOWNSEND LIVESTOCK MARKET,
FIFTH THIRD BANK,
JAMES BYRD, aka I. E. Byrd,
OAK LAKE CATTLE COMPANY, INC.,
D&R TRUCKING,
RONALD SIZEMORE TRUCKING, INC.,
BANKS 1-25, and DOES 25-50,

CASE NO. 10 CV 317

Code: 30701

Defendants.

ADMISSION OF SERVICE

I received and admit service of the following:

1. Summons and Complaint
2. Motion for Order Authorizing Deposit of Interpled Proceeds to Clerk of Court

Dated: 12/04/10

D & R TRUCKING

By:

Its:

Laura B. Miller
Office Manager

STATE OF WISCONSIN

CIRCUIT COURT

VERNON COUNTY

RUSH CREEK RANCH, I.L.L.P.,
a Colorado limited liability limited partnership,

Plaintiff,

-VS-

EASTERN LIVESTOCK COMPANY, LLC,
ARCADIA STOCKYARD,
CATTLEMEN'S LIVESTOCK MARKET,
COLUMBIA LIVESTOCK MARKET
OF LAKE CITY, INC.,
HARDEE LIVESTOCK MARKET, INC.,
NORTH FLORIDA LIVESTOCK MARKET,
OCALA LIVESTOCK MARKET, INC.,
OKEECHOBEE LIVESTOCK MARKET,
SUMTER COUNTY FARMER'S MARKET, INC.,
TOWNSEND LIVESTOCK MARKET,
FIFTH THIRD BANK,
JAMES BYRD, aka I. E. Byrd,
OAK LAKE CATTLE COMPANY, INC.,
D&R TRUCKING,
RONALD SIZEMORE TRUCKING, INC.,
BANKS 1-25, and DOES 25-50,

CASE NO. 10 CV 317

Code: 30701

Defendants.

ADMISSION OF SERVICE

I received and admit service of the following:

1. Summons and Complaint
2. Motion for Order Authorizing Deposit of Interpled Proceeds to Clerk of Court

Dated: 12/2/10

FIFTH THIRD BANK

By: [Signature]
Its Attorney

REC'D DEC 20 2010

STATE OF WISCONSIN

CIRCUIT COURT

VERNON COUNTY

RUSH CREEK RANCH, LLLP,
a Colorado limited liability limited partnership,

Plaintiff,

-VS-

EASTERN LIVESTOCK COMPANY, LLC,
ARCADIA STOCKYARD,
CATTLEMEN'S LIVESTOCK MARKET,
COLUMBIA LIVESTOCK MARKET
OF LAKE CITY, INC.,
HARDEE LIVESTOCK MARKET, INC.,
NORTH FLORIDA LIVESTOCK MARKET,
OCALA LIVESTOCK MARKET, INC.,
OKEECHOBEE LIVESTOCK MARKET,
SUMTER COUNTY FARMER'S MARKET, INC.,
TOWNSEND LIVESTOCK MARKET,
FIFTH THIRD BANK,
JAMES BYRD, aka I. E. Byrd,
OAK LAKE CATTLE COMPANY, INC.,
D&R TRUCKING,
RONALD SIZEMORE TRUCKING, INC.,
BANKS 1-25, and DOES 25-50,

CASE NO. 10 CV 317

Code: 30701

Defendants.

ADMISSION OF SERVICE

I received and admit service of the following:

1. Summons and Complaint
2. Motion for Order Authorizing Deposit of Interpled Proceeds to Clerk of Court

Dated: 12/1/10

COLUMBIA LIVESTOCK MARKET

By: 

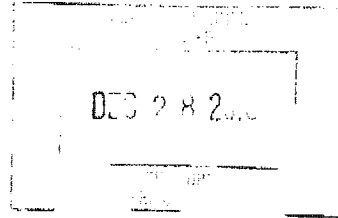
Its Pres

WALTER SCOTT NEWBERN, III
Attorney-At-Law

VIA EMAIL & FEDERAL EXPRESS

December 23, 2010

Kathleen Buross
Clerk Of Court
Vernon County Courthouse
400 Courthouse Square
P.O. Box 426
Viroqua, WI 54665
Phone: 608-637-5340
Fax: 608-637-5554
clerkofcourt@vernoncounty.org



RE: *Rush Creek Ranch, LLP v. Eastern Livestock Company, LLC, et al.*
Case No. 10 CV 317

Dear Ms. Buross:

By way of introduction, I represent Hilliard-McKetrick Investments, Inc. d/b/a Arcadia Stockyard, a Defendant in the subject case. My Notice of Appearance was filed on December 6, 2010. Obviously I would like to be copied on any and all future filings by the parties in this matter, so please make certain that I have been entered as an attorney of record.

Additionally there are several documents from the record for which I would like to receive copies. For simplicity I have attached the Court Record Of Events and identified the records for which I would like to receive copies.

Thank you for your attention to this matter and *Best Wishes for the Holidays and the New Year.*


Sincerely,


W. Scott Newbern

cc: Carl McKetrick

Wisconsin Circuit Court Access (WCCA)
Rush Creek Ranch, LLLP vs. Eastern Livestock Company , LLC

Vernon County Case Number 2010CV000317
Court Record Events

What is RSS? 

	Date	Event	Court Official	Court Reporter
1	11-17-2010	Summons		
2	11-17-2010	Complaint filed Additional Text: Complaint for Interpleader		
3	11-17-2010	Motion Additional Text: Motion for Order Authorizing Deposit of Interpled Proceeds to Clerk of Court		
4	11-17-2010	Filing fee paid Amount \$ 164.50 Additional Text: 10R 004521		
5	12-06-2010	Admission of service Additional Text: by Hardee Livestock Market, Inc. on November 26, 2010.	Rosborough, Michael J.	
6	12-06-2010	Admission of service Additional Text: by Okeechobee Livestock Market on November 29, 2010.	Rosborough, Michael J.	
7	12-06-2010	Admission of service Additional Text: on Ocala Livestock Market, Inc. on November 22, 2010.	Rosborough, Michael J.	
8	12-06-2010	Notice of Appearance Additional Text: Notice of Appearance on Behalf of Hilliard-McKetrick Investments, Inc., d/b/a Arcadia Stockyard		
9	12-06-2010	Response/reply Additional Text:		

Court Record Events for 2010CV000317 in Vernon County

Defendant Arcadia Stockyard's Response to Interpleader and Demand for Immediate Payment of
Amounts Due on Account from Livestock Sales

✓ 10 12-07-2010 Received documents

✓ 11 12-10-2010 Admission of service

Additional Text:

D&R Trucking admitted service of the summons & complaint, December 4, 2010

✓ 12 12-15-2010 Admission of service

Additional Text:

Fifth Third Bank admitted service of the summons & complaint, December 2, 2010

STATE OF WISCONSIN

CIRCUIT COURT

VERNON COUNTY

RUSH CREEK RANCH, LLLP

Case No. 10 CV 317

Plaintiff,

Code: 30701

v.

EASTERN LIVESTOCK COMPANY, LLC, et al.

Defendants.

ANSWER OF DEFENDANT FIFTH THIRD BANK

Defendant Fifth Third Bank, by and through its counsel, and for its answer to the Complaint for Interpleader of plaintiff, Rush Creek Ranch, LLLP ("Plaintiff"), states as follows:

ANSWER

1. The allegations in Paragraph 1 of Plaintiff's complaint are legal conclusions to which no response is required. To the extent answer is required, Fifth Third Bank denies the allegations in paragraph 1.

2. The allegations in Paragraph 2 of Plaintiff's complaint are legal conclusions to which no response is required. To the extent answer is required, Fifth Third Bank denies the allegations in paragraph 2.

3. Fifth Third Bank denies the allegations of paragraph 3 for lack of knowledge or information sufficient to form a belief.

4. Fifth Third Bank denies the allegations of paragraph 4 for lack of knowledge or information sufficient to form a belief.

5. Fifth Third Bank denies the allegations of paragraph 5 for lack of knowledge or information sufficient to form a belief.

COPY

cc client 12/30/10

6. Fifth Third Bank admits that defendant Eastern Livestock Co., LLC is a Kentucky limited liability company with an address at 135 West Market, New Albany, Indiana.

7. Fifth Third Bank denies the allegations of paragraph 7 for lack of knowledge or information sufficient to form a belief.

8. Fifth Third Bank denies the allegations of paragraph 8 for lack of knowledge or information sufficient to form a belief.

9. Fifth Third Bank denies the allegations of paragraph 9 for lack of knowledge or information sufficient to form a belief.

10. Fifth Third Bank denies the allegations of paragraph 10 for lack of knowledge or information sufficient to form a belief.

11. Fifth Third Bank denies the allegations of paragraph 11 for lack of knowledge or information sufficient to form a belief.

12. Fifth Third Bank denies the allegations of paragraph 12 for lack of knowledge or information sufficient to form a belief.

13. Fifth Third Bank denies the allegations of paragraph 13 for lack of knowledge or information sufficient to form a belief.

14. Fifth Third Bank denies the allegations of paragraph 14 for lack of knowledge or information sufficient to form a belief.

15. Fifth Third Bank denies the allegations of paragraph 15 for lack of knowledge or information sufficient to form a belief.

16. Fifth Third Bank admits the allegations of paragraph 16 of Plaintiff's complaint.

17. Fifth Third Bank denies the allegations of paragraph 17 for lack of knowledge or information sufficient to form a belief.

18. Fifth Third Bank denies the allegations of paragraph 18 for lack of knowledge or information sufficient to form a belief.

19. Fifth Third Bank denies the allegations of paragraph 19 for lack of knowledge or information sufficient to form a belief.

20. Fifth Third Bank denies the allegations of paragraph 20 for lack of knowledge or information sufficient to form a belief.

21. Fifth Third Bank denies the allegations of paragraph 21 for lack of knowledge or information sufficient to form a belief.

22. Fifth Third Bank denies the allegations of paragraph 22 for lack of knowledge or information sufficient to form a belief and states that Exhibit A speaks for itself and denies any allegations inconsistent therewith.

23. Fifth Third Bank denies the allegations of paragraph 23 for lack of knowledge or information sufficient to form a belief.

24. Fifth Third Bank denies that Eastern Livestock Co., LLC paid Fifth Third Bank for the cattle and denies the remaining allegations of paragraph 24 for lack of knowledge or information sufficient to form a belief.

25. Fifth Third Bank denies the allegations of paragraph 25 for lack of knowledge or information sufficient to form a belief and states that Exhibit B speaks for itself and denies any allegations inconsistent therewith.

26. Fifth Third Bank denies the allegations of paragraph 26 for lack of knowledge or information sufficient to form a belief.

27. Fifth Third Bank denies that Eastern Livestock Co., LLC paid Fifth Third Bank for the cattle and denies the remaining allegations of paragraph 27 for lack of knowledge or information sufficient to form a belief.

28. Fifth Third Bank denies the allegations of paragraph 28 for lack of knowledge or information sufficient to form a belief and states that Exhibit C speaks for itself and denies any allegations inconsistent therewith.

29. Fifth Third Bank denies the allegations of paragraph 29 for lack of knowledge or information sufficient to form a belief.

30. Fifth Third Bank admits that Eastern Livestock Co., LLC has not paid it for the cattle and denies the remaining allegations of paragraph 30 for lack of knowledge or information sufficient to form a belief.

31. Fifth Third Bank denies the allegations of paragraph 31 for lack of knowledge or information sufficient to form a belief and states that Exhibit D speaks for itself and denies any allegations inconsistent therewith.

32. Fifth Third Bank denies the allegations of paragraph 32 for lack of knowledge or information sufficient to form a belief.

33. Fifth Third Bank admits that Eastern Livestock Co., LLC has not paid it for the cattle and denies the remaining allegations of paragraph 33 for lack of knowledge or information sufficient to form a belief.

34. Fifth Third Bank denies the allegations of paragraph 34 for lack of knowledge or information sufficient to form a belief.

35. Fifth Third Bank denies the allegations of paragraph 35 for lack of knowledge or information sufficient to form a belief.

36. Fifth Third Bank denies the allegations of paragraph 36 for lack of knowledge or information sufficient to form a belief.

37. Fifth Third Bank denies the allegations of paragraph 37 for lack of knowledge or information sufficient to form a belief.

38. Fifth Third Bank admits that it has an interest in the Interpled Funds and denies the remaining allegations of paragraph 38 for lack of knowledge or information sufficient to form a belief.

39. Fifth Third Bank denies the allegations of paragraph 39 for lack of knowledge or information sufficient to form a belief.

40. Fifth Third Bank denies the allegations of paragraph 40 for lack of knowledge or information sufficient to form a belief.

41. Paragraph 41 of Plaintiff's complaint is a prayer for relief to which no response is required. To the extent answer is required, Fifth Third Bank denies the allegations of paragraph 41.

42. Fifth Third Bank denies the allegations of paragraph 42 for lack of knowledge or information sufficient to form a belief.

43. Fifth Third Bank denies the allegations of paragraph 43 for lack of knowledge or information sufficient to form a belief.

44. Paragraph 44 of Plaintiff's complaint is a prayer for relief to which no response is required. To the extent answer is required, Fifth Third Bank denies the allegations of paragraph 44.

45. Paragraph 45 of Plaintiff's complaint is a prayer for relief to which no response is required. To the extent answer is required, Fifth Third Bank denies the allegations of paragraph 45.

46. Fifth Third Bank denies all allegations of Plaintiff's complaint not specifically admitted herein.

FIRST DEFENSE

47. Fifth Third Bank has a security interest in all of Eastern Livestock Co., LLC's assets and property, real and personal, tangible and intangible, including but not limited to, all of Eastern Livestock Co., LLC's accounts, inventory, equipment, farm equipment, livestock, investment property, and general intangibles as defined under Fifth Third Bank's Security Agreement with Eastern Livestock Co., LLC.

SECOND DEFENSE

48. On December 6, 2010, an involuntary bankruptcy was filed against Eastern Livestock Co., LLC in the US Bankruptcy Court for the Southern District of Indiana, Case 10-93904-BHL-11, and therefore, further prosecution of this matter may be barred.

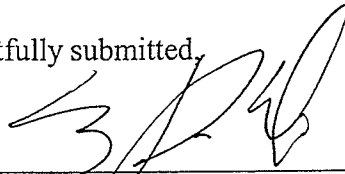
THIRD DEFENSE

49. Fifth Third Bank gives notice that it may rely upon other and further defenses as may become available or apparent during discovery and hereby reserves its right to amend its answer as to any such further defenses.

WHEREFORE, Fifth Third Bank demands that its security interest in all of Eastern Livestock Co., LLC's assets and real and personal property be given its proper priority, that Fifth Third Bank be awarded its costs and fees incurred herein, and that Fifth Third Bank be awarded such other and further relief to which it may be entitled in equity or in law.

Dated: December 29, 2010

Respectfully submitted,



Allen C. Schlinsog, Jr., State Bar No. 1025656
Reinhart Boerner Van Deuren s.c.
1000 North Water Street, Suite 1700
Milwaukee, WI 53202
Telephone: (414) 298-8214
Fax: (414) 298-8097
E-mail: aschlinsog@reinhartlaw.com

Bryan K. Nowicki, State Bar No. 1029857
Reinhart Boerner Van Deuren s.c.
22 East Mifflin Street, Suite 600
Madison, WI 53703
Telephone: (608) 229-2200
Facsimile: (608) 229-2100
E-mail: bnowicki@reinhartlaw.com

Trial Attorneys for Defendant, Fifth Third Bank

REINHART5700452

STATE OF WISCONSIN

CIRCUIT COURT

VERNON COUNTY

RUSH CREEK RANCH, LLLP,

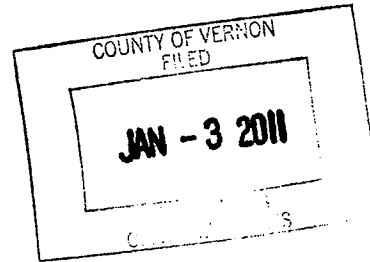
Plaintiff,

vs.

Case No. 10 cv 317

EASTERN LIVESTOCK COMPANY, LLC,
ARCADIA STOCKYARD, CATTLEMEN'S
LIVESTOCK MARKET, COLUMBIA
LIVESTOCK MARKET OF LAKE CITY, INC.,
HARDEE LIVESTOCK MARKET, INC., NORTH
FLORIDA LIVESTOCK MARKET, OCALA
LIVESTOCK MARKET, INC., OKEECHOBEE
LIVESTOCK MARKET, SUMTER COUNTY
FARMER'S MARKET, INC., TOWNSEND
LIVESTOCK MARKET, FIFTH THIRD BANK,
JAMES BYRD a/k/a I.E. BYRD, OAK LAKE
CATTLE COMPANY, INC., D&R TRUCKING,
RONALD SIZEMORE TRUCKING, INC.,
BANKS 1-25, and DOES 25-50,

Defendants.



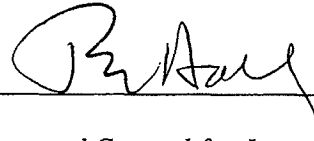
NOTICE OF FILING OF BANKRUPTCY PETITION

YOU ARE HEREBY NOTIFIED that an order for relief under Chapter 11 of Title 11, United States Code ("Bankruptcy Code") was entered on December 28, 2010 in the chapter 11 case of Eastern Livestock Co., LLC ("Debtor"), Case No. 10-93904-BHL-11, in the United States Bankruptcy Court, Southern District of Indiana, New Albany Division. A copy of the order for relief is attached as Exhibit A.

The Debtor is entitled to all benefits and protections of the Bankruptcy Code, including but not limited to the automatic stay created under 11 U.S.C. § 362.

Respectfully submitted,

BAKER & DANIELS, LLP



Terry E. Hall (#22041-49)
300 N. Meridian Street, Suite 2700
Indianapolis, IN 46204-1782
Telephone: (317) 237-0300
Facsimile: (317) 237-1000
terry.hall@bakerd.com

*Proposed Counsel for James A. Knauer, Chapter 11
Trustee appointed In Re Eastern Livestock Co., LLC*

CERTIFICATE OF SERVICE

I hereby certify that on December 30, 2010, a copy of the foregoing pleading was mailed by first-class U.S. Mail, postage prepaid and properly addressed, to the following:

David L. Abt
Abt Law Office
PO Box 128
Westby, WI 54665

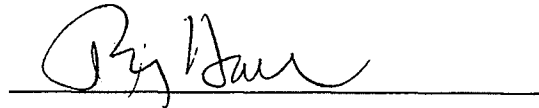


Exhibit A

Case 10-93904-BHL-11 Doc 110 Filed 12/28/10 EOD 12/28/10 11:18:11 Pg 1 of 1
SO ORDERED: December 28, 2010.



Basil H. Lorch III

Basil H. Lorch III
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
121 W Spring St Rm 110
New Albany, IN 47150

B253 (rev 05/2008)

In Re:

Eastern Livestock Co., LLC

SSN: NA

EIN: NA

Debtor(s)

Case Number:

10-93904-BHL-11

**ORDER FOR RELIEF IN AN INVOLUNTARY CASE AND
ORDER TO COMPLETE FILING**

On consideration of the petition filed on December 6, 2010 against the above-named debtor, an order for relief under Chapter 11 of title 11 of the United States Code is GRANTED.

IT IS FURTHER ORDERED that the debtor shall file or submit all documents required by Fed.R.Bankr.P. 1007(a)(2), (b), and (f) within the time limits set by that Rule.

###

STATE OF WISCONSIN CIRCUIT COURT VERNON COUNTY

RUSH CREEK RANCH, LLLP,
a Colorado limited liability limited partnership,

Plaintiff,

-VS-

EASTERN LIVESTOCK COMPANY, LLC,
ARCADIA STOCKYARD,
CATTLEMEN'S LIVESTOCK MARKET,
COLUMBIA LIVESTOCK MARKET
OF LAKE CITY, INC.,
HARDEE LIVESTOCK MARKET, INC.
NORTH FLORIDA LIVESTOCK MARKET,
OCALA LIVESTOCK MARKET, INC.,
OKEECHOBEE LIVESTOCK MARKET,
SUMTER COUNTY FARMER'S MARKET, INC.,
TOWNSEND LIVESTOCK MARKET,
FIFTH THIRD BANK,
JAMES BYRD, a/k/a I. E. Byrd,
OAK LAKE CATTLE COMPANY, INC.,
D&R TRUCKING,
RONALD SIZEMORE TRUCKING, INC.,
BANKS 1-25, and DOES 25-50,

CASE NO. 10 CV 317

Code 030701

Defendants.

NOTICE OF APPEARANCE ON BEHALF OF ARCADIA STOCKYARD; CATTLEMEN'S
LIVESTOCK MARKET; COLUMBIA LIVESTOCK MARKET OF LAKE CITY, INC.;
HARDEE LIVESTOCK MARKET, INC.; NORTH FLORIDA LIVESTOCK MARKET, INC.;
OCALA LIVESTOCK MARKET, INC.; OKEECHOBEE LIVESTOCK MARKET, INC.;
SUMTER COUNTY FARMER'S MARKET, INC.; and
TOWNSEND LIVESTOCK MARKET

The undersigned attorney hereby confirms prior Notice of Appearance on behalf of

Defendant Hilliard-McKetrick Investments, Inc. d/b/a Arcadia Stockyard ("Arcadia

Stockyard"), and gives additional Notice of Appearance on behalf of the following claimants

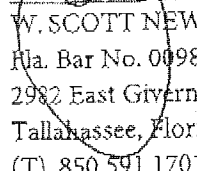
to the Interpled funds on deposit with this Court:

1. ARCADIA STOCKYARD
2. CATTLEMEN'S LIVESTOCK MARKET;
3. COLUMBIA LIVESTOCK MARKET OF LAKE CITY, INC.;
4. HARDEE LIVESTOCK MARKET, INC.;
5. NORTH FLORIDA LIVESTOCK MARKET, INC.;
6. Ocala LIVESTOCK MARKET, INC.;
7. OKEECHOBEE LIVESTOCK MARKET, INC.;
8. SUMTER COUNTY FARMER'S MARKET, INC.; and
9. TOWNSEND LIVESTOCK MARKET,

Undersigned counsel request copies of all future pleadings.

Respectfully submitted this 31st day of January 2011,

W. SCOTT NEWBERN, P.L.


W. SCOTT NEWBERN
Fla. Bar No. 0098108
2982 East Giverny
Tallahassee, Florida 32309
(T) 850.591.1701
(F) 850.894.0871
wsnewbern@msn.com

COUNSEL FOR FLORIDA LIVESTOCK
MARKETS

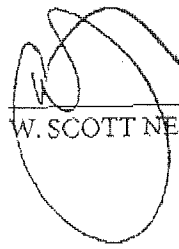
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to
the following by electronically/facsimile/U.S. Mail this 31st day of January 2011.

David L. Abt
ABT LAW OFFICE
210 North Main St.
P.O. Box 128
Westby, WI 54667
T: 608.634.2157
F: 608.634.2159
davidabt@mwt.net

Allen C. Schlinsog, Jr.
REINHART BOERNER VAN DEUREN, s.c.
1000 North Water St., Suite 1700
Milwaukee, WI 53202
T: (414) 298 8214
F: (414) 298 8097
aschlinsog@reinhardtllaw.com

Terry E. Hall
BAKER & DANIELS, LLP
300 N. Meridian St., Ste 2700
Indianapolis, IN 46204-1782
T: 313.237.0300
F: 313.237.1000
terry.hall@bakerd.com



W. SCOTT NEWBERN

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WISCONSIN
EAU CLAIRE DIVISION**

RUSH CREEK RANCH, LLLP,)	
a Colorado Limited Liability Limited Partnership,)	
)	
Plaintiff,)	
)	
vs.)	
)	
EASTERN LIVESTOCK COMPANY, LLC.,)	
ARCADIA STOCKYARD,)	
CATTLEMEN’S LIVESTOCK MARKET,)	NO. _____
COLUMBIA LIVESTOCK MARKET OF)	
LAKE CITY, INC., HARDEE LIVESTOCK)	
MARKET, INC., NORTH FLORIDA)	
LIVESTOCK MARKET, Ocala LIVESTOCK)	
MARKET, INC., OKEECHOBEE LIVESTOCK)	
MARKET, SUMTER COUNTY FARMER’S)	
MARKET, INC., TOWNSEND LIVESTOCK)	
MARKET, FIFTH THIRD BANK,)	
JAMES BYRD, aka I.E. BYRD, OAK LAKE)	
CATTLE COMPANY, INC., D&R TRUCKING,)	
RONALD SIZEMORE TRUCKING, INC.)	
BANKS 1-25, and DOES 25-50,)	
)	
Defendants.)	

NOTICE OF FILING IN STATE COURT

The undersigned, attorneys for James A. Knauer, the Chapter 11 trustee (“Trustee”) for defendant Eastern Livestock Co., LLC (“Eastern”), certify that a copy of the Notice of Removal of this action was sent via FedEx to be filed with the Circuit Court of Vernon County, Case No. 10CV0317, on the 24th day of March, 2011.

Dated this 24th day of March, 2011.

MICHAEL BEST & FRIEDRICH LLP
Attorneys for James A. Knauer, Trustee for Eastern
Livestock Co., LLC

By: /s/ Nathan L. Moenck
Nathan L. Moenck

Ann Ustad Smith, Esq.
Nathan L. Moenck, Esq.
MICHAEL BEST & FRIEDRICH LLP
One South Pinckney Street, Suite 700
P.O. Box 1806
Madison, WI 53701-1806
Phone: 608-257-3501
Fax: 608-283-2275
ausmith@michaelbest.com
nlmoenck@michaelbest.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served upon the following counsel and parties of record by U.S. mail, first class, postage prepaid on this 24th day of March, 2011:

TO: Counsel for Rush Creek Ranch, LLLP:

David L. Abt, Esq.
ABT Law Office
210 North Main Street
P.O. Box 128
Westby, WI 54667

Counsel for Arcadia Stockyard; Cattlemen's
Livestock Market; Columbia Livestock
Market Of Lake City, Inc.; Hardee
Livestock Market, Inc.; North Florida
Livestock Market, Inc.; Ocala Livestock
Market, Inc.; Okeechobee Livestock
Market, Inc.; Sumter County Farmer's
Market, Inc.; and Townsend Livestock
Market:

W. Scott Newbern, Esq.
W. SCOTT NEWBERN, P.L.
2982 E. Giverny
Tallahassee, FL 32309

Counsel for Fifth Third Bank:

Brian K. Nowicki, Esq.
Reinhart Boerner Van Deuren, S.C.
22 E. Mifflin Street, Suite 600
Madison, WI 53703

James Byrd a/k/a I.E. Byrd d/b/a Oak Lake
Cattle Company, Inc.
1202 Northwest 8th Avenue
Okeechobee, FL 34972-2024

D&R Trucking
Alton, Iowa 51003

Ronald Sizemore Trucking, Inc.
9871 SE 22nd Street
Webster, FL 33597